

Genesee County Environmental Health Regulations

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Additions, Replacements, and Changes

Additions:

Section 1.0041	General (December 1, 1998, Resolution #98-494)
Section 6.3012.1	Building Permit (May 25, 1999, Resolution #99-206)
October, 2023	Section 1.003 - BOARD OF HEALTH Schedule of Monetary Civil Penalties Section 6.3011 CHANGE OF USE Section 6.3016 SEASONAL RESTRICTIONS (MORATORIUM) Section 6.3017 – Holding Tanks Section 6.402 – Prohibition Section 7.20 – LICENSE Section 7.201 - LICENSE EXCEPTION
June, 2024	Chapter IX Body Art –Incorporating this regulation, adopted April, 2001, into the EH regulations.

Replacements:

Section 1.014 Person (December 11, 1998, Resolution #98-494)
Chapter IV – Water Well, Construction, Abandonment and Groundwater Protection Regulation (December 1, 1998, Resolution #980494)
Chapter VII – Sewage Disposal System Contractors Licensing Regulation (May 25, 1999, Resolution #99-206)

Changes:

August, 2002: These changes are editorial in nature, correcting grammar, spelling and completing the process by which timeframes are specified in terms of either business or calendar days. (August 27, 2002, Resolution #02-329)

CHAPTER I - GENERAL PROVISIONS OF THE REGULATIONS

The Board of Commissioners of Genesee County, Michigan, by virtue of the power vested in this body under authority of Section 2441 (1) of the Michigan Public Health Code, Act 368, P.A. 1978, as amended (MCL 333.1101 et seq.), hereby adopts Environmental Health Regulations.

SECTION 1.00 - DEFINITIONS APPLICABLE TO ENTIRE REGULATIONS

Section 1.001 APPROVED OR ACCEPTABLE - Means suitable for the proposed 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 an applicable standard, specification or criterion developed by a recognized agency.

Section 1.002 BOARD OF COMMISSIONERS - Means the Board of Commissioners of Genesee County, Michigan.

Section 1.003 CODE - Means the Public Health Code of Michigan, Act 368, P.A. 1978, as amended (MCL 333.1101 et seq.).

Section 1.004 GENERAL - 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 1.005 HABITABLE BUILDING OR DWELLING - Means any permanent or temporary building structure, or part thereof where persons reside, live, sleep, cook, are employed or congregate or any combination thereof.

Section 1.006 HEALTH DEPARTMENT - Means the Genesee County Health Department, Flint, Michigan 48502.

Section 1.007 HEALTH OFFICER - Means the Acting or Administrative Health Officer of the Genesee County Health Department or authorized representative.

Section 1.008 IMMINENT DANGER OR HEALTH HAZARD - Means a condition, or practice exists which could reasonably be expected to cause death, disease, or serious physical harm immediately or before the imminence of the danger can be eliminated through enforcement procedures otherwise provided.

Section 1.009 INSPECTION - Means an evaluation of a surveillance, enforcement, or investigative nature incidental to the conduct of environmental or public health matters.

Section 1.010 MUNICIPALITY - Means any city, village or township within Genesee County (State of Michigan).

Section 1.011 NOTICE OF VIOLATION - Means an order issued by the Health Officer stating a violation and ordering correction of a condition or conditions in violation of these Regulations.

Section 1.012 NUISANCE - Means a public nuisance as known as common law or in equity jurisprudence and shall include public, private and mixed nuisances; conditions existing that injure, endanger, or are detrimental to human life, safety and health of the public; buildings, structures, or premises not sufficiently ventilated, sewerred, drained, cleaned, or lighted, in reference to their intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

Section 1.013 OWNER - Means the titleholder of record, or the person occupying or in possession of any property or premises.

Section 1.014 PERSON - "Person" means an individual, partnership, co-partnership, company, firm, cooperative, public or private association or corporation, political subdivision, unit or agency of a local, state, or federal government, trust, estate, or any other legal entity, or their legal representative, agent, or assigns.

Section 1.015 PREMISES - Means a tract or parcel of land on which a habitable building may be located, including the building.

Section 1.016 REGULATION/REGULATIONS – In the singular – means a Chapter of the Genesee County Environmental Health Regulations. In the plural – means collectively the Genesee County Environmental Health Regulations.

Section 1.10 - AUTHORITY AND ADMINISTRATION

Section 1.101 AUTHORITY - The Board of Commissioners of Genesee County, Michigan, is authorized by Section 2441 (1) of the Code to adopt these Regulations. The Regulations govern sewage disposal contractors, private and commercial sewage disposal systems, safety (rescue) and communications equipment at public bathing beaches, the conduct of appeals of actions taken under authority of these Regulations, the conduct of appeals of food service establishment licensure actions, Type III water wells, and the control of nuisances with regard to refuse disposal and sanitation of habitable buildings. The Regulations further reference minimum standards and procedures, and provide for variances, penalties and the establishment of fees for various services and functions performed.

Section 1.102 INTENT AND CONSTRUCTION - The provisions of these Regulations are hereby adopted for the express purpose of protecting public health and safety and the quality of the natural environment, and to prevent the occurrence of public nuisances and shall be liberally construed to achieve these objectives.

Section 1.103 REPEAL - The following rules and regulations are repealed:

1. Genesee County Sewage Disposal System Contractor Licensing Regulations adopted October 9, 1966.
2. Genesee County Sewage Disposal Regulations adopted July 8, 1969.
3. Genesee County Environmental Improvement Regulations adopted October 9, 1973.
4. Construction Standards for Sewage Disposal Systems in Genesee County dated May 21, 1982.
5. Any other local rule or regulations in conflict with these Regulations.

Section 1.104 ADMINISTRATION AND JURISDICTION - The Health Officer is hereby authorized to apply, administer and enforce the provisions of these Regulations. The Health Officer is hereby empowered to act to abate nuisances or potential health hazards resulting from violations of the Regulations. Nothing stated in the Regulations shall be construed to limit the power of the Health Officer to order the immediate and complete abatement of, or correction by whatever means possible, a public nuisance to the public health. The Health Department shall have jurisdiction throughout Genesee County, including all cities, villages and townships for the administration and enforcement of these regulations, including all amendments hereafter adopted, unless otherwise specifically stated. Nothing in these Regulations shall be construed to restrict or abrogate the authority of any municipality in Genesee County to adopt more restrictive regulations or ordinances. Consistent with its powers and duties under Sections 2433 and 2435 of the Code, the Health Department may, under authority recognized and granted by the Michigan Department of Public Health pursuant to Section 2235 of the Code, enter into agreement or contract with a municipality or other entity for the provisions of health services in all or any part of its jurisdiction.

Section 1.105 ENFORCEMENT - All premises affected by this Regulation shall be subject to unannounced (“no notice”) inspection by the Health Officer, who may collect such samples for laboratory examination, or seize such property and perform such other tests as deemed necessary for the enforcement of these Regulations.

Section 1.106 RIGHT OF ENTRY AND INSPECTION - No person shall refuse to permit the Health Officer to inspect any premises at reasonable times. It shall be unlawful for any person to molest, intimidate or resist the Health Officer in the discharge of official duties. The Health Officer, after giving proper identification, may inspect any matter, thing, premise, place, person, record, vehicle, incident, or event as provided for by Section 2446 of the Code. The Health Officer may apply for an inspection or investigation warrant pursuant to Section 2242 of the code to assure compliance with provisions herein enacted or other laws which must be enforced. The Health Officer may request the assistance of the Genesee County Sheriff's Department, or other police agency or peace officer when necessary to execute official duties in a manner prescribed by law.

Section 1.107 INTERFERENCE WITH NOTICES - No person shall remove, mutilate, alter, or conceal any notice or placard posted by the Health Officer except by permission of the Health Officer.

Section 1.108 FEES - Fees may be fixed and required under separate schedule duly adopted and revised periodically by the Genesee County Board of Commissioners for services and functions performed by authority of Section 2444 of the Code. All fees shall be collected by the Health Department and shall be receipted for and deposited with the Genesee County Treasurer and credited to the Health Department. Fees shall be paid in full prior to the performance of such service or function by the Health Department. Fees shall be non-refundable unless requests for refunds are received prior to performance by the Health Department.

Section 1.109 PENALTY FOR VIOLATION - A person who violated a provision of these Regulations is guilty of a misdemeanor, as provided in Section 2441(2) of the Code. In the case of continuing violations, each day's violation shall constitute a separate offense.

Section 1.110 AMENDMENTS - The Health Officer may recommend to the Board of Commissioners from time to time, amendments to the Regulations in the same manner as they were originally adopted and approved.

Section 1.111 APPEALS - Appeals of actions taken under authority of these Regulations are governed by Chapter II of the Regulations. Appeals of food service establishment license actions are governed by Chapter III of the Regulations.

Section 1.112 OTHER LAWS AND REGULATIONS - These Regulations are intended to be consistent with applicable federal and state law and shall be construed, when necessary, to achieve that consistency, as provided in Section 1115 of the Code.

Section 1.113 POWER TO ESTABLISH POLICY AND GUIDELINES - The Health Officer is hereby granted the authority to establish policies and guidelines, not in conflict with the intent of the Regulations, for the purpose of carrying out the responsibilities herein delegated to the Health Officer by law. These policies and guidelines are subject to review by the Genesee County Board of Commissioners.

Section 1.114 NOTICE OF VIOLATION - Whenever the Health Officer determines that there exists a violation of any provision of these Regulations, a notice of such violation shall be given to the person or persons responsible which shall order compliance with the Regulations. Such notice and order shall:

1. Be in writing
2. Specify the violation by referring to the sections of the Regulations violated;
3. Outline remedial action to effect compliance with the provisions of these Regulations;
4. Set a reasonable time, not to exceed ninety (90) calendar days, for compliance;
5. Be personally served upon the responsible party or sent by certified mail to the last known address, or if the person to be served is unknown, by posting said notice in some conspicuous place on the premises;
6. Advise that failure to correct or abate the violation in the prescribed manner may result in the issuance of a misdemeanor appearance ticket or civil citation.

Section 1.115 ORDER OF IMMEDIATE DISCONTINUANCE - The Health Officer may require immediate discontinuance of any operation or construction in instances where continuation would create a health hazard, conditions do not comply with the requirements of the Health Department, there is direct violation of these Regulations, or where construction has proceeded unlawfully and without a valid permit. Noncompliance with such order shall be a violation of the Regulations.

Section 1.116 MISDEMEANOR APPEARANCE TICKETS - Under authority of Section 2463 of the Code, designated employees may be specifically authorized, subject to approval by the Genesee County Sheriff, to issue and serve misdemeanor appearance tickets with respect to violations of the rules, regulations and by-laws adopted by the Genesee County Board of commissioners and the statutes of the State of Michigan concerning health matters which are in the jurisdiction of the Health Department.

No misdemeanor appearance tickets shall be issued for a violation of the Regulations without first having served the person in violation of the Regulations with a written NOTICE OF VIOLATION (as provided in Section 1.114 above).

Section 1.117 INJUNCTIVE PROCEEDINGS - Notwithstanding the existence and pursuit of any other remedy, the Health Officer, without posting bond, may maintain an action in a court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of the Regulations or to correct a violation or activity or condition which is believed to adversely affect the public health pursuant to Section 2465 (1) of the Code.

Section 1.118 CIVIL CITATIONS - Pursuant to Section 2461 and 2462 of the Code, the employees designated in Section 1.116 are hereby authorized to issue civil citations to be assessed for a specific violation of the Regulations at that time or not later than 90 days after discovery of the alleged violation. The citation shall be written and shall state specifically the nature of the violation, including reference to the section, rule, order or regulation alleged to have been violated, the civil penalty established for the violation, if any, and the right to appeal the citation. The citation shall be delivered or sent by certified mail to the alleged violator.

Section 1.1181 APPEAL OF THE CIVIL CITATION - Not later than twenty (20) calendar days after receipt of a civil citation, an alleged violator may petition the Health Department for an administrative hearing which shall be held within thirty (30) calendar days after the receipt of the petition. After the administrative hearing, the Health Officer may affirm, dismiss or modify the citation. The decision of the Health Officer shall be final unless within sixty (60) calendar days of the decision, the Human Services/Finance Committee of the Genesee County Board of Commissioners grants review of the citation. After the review, the Human Services/Finance Committee may affirm, dismiss or modify the citation. A person aggrieved by a decision of the Human Services/Finance Committee may petition the circuit court of Genesee County for review. The petition for court review shall be filed not later than sixty (60) calendar days following receipt of the final decision concerning the civil citation.

Section 1.119 MONETARY CIVIL PENALTIES - By authority of Section 2461 of the Code, the following schedule of monetary civil penalties is hereby adopted.

Schedule of Monetary Civil Penalties

This schedule sets forth monetary penalties for certain specific violations of the Regulations and other laws which the Health Department must enforce. One or more monetary penalties may be assessed concurrently. Each calendar day the violation continues shall be considered a separate offense.

<ul style="list-style-type: none"> • Installation of an on-site sewage disposal system without a permit (homeowner and/or licensed installer) 	\$500
<ul style="list-style-type: none"> • Construction of an on-site sewage disposal system without a license 	\$500
<ul style="list-style-type: none"> • Operation of a food service establishment or a temporary food service establishment without a license 	\$500
<ul style="list-style-type: none"> • Construction of a food service establishment without approved plans 	\$500
<ul style="list-style-type: none"> • Construction of a Private, Type II or III well, as defined by Act 399, PA 1976, as amended (MCL 325.1001 <u>et seq.</u>) without permit (homeowner and/or licensed well driller) 	\$500
<ul style="list-style-type: none"> • Failure of a Type II Non-Community Water Supply owner to provide water samples, as defined by the MI Administrative Code under Section 5 of the Safe Drinking Water Act, 1976 PA 399, MCL 325.1005 	\$500
<ul style="list-style-type: none"> • Failure of a public swimming pool operator to demonstrate acceptable bacteriological water quality in the form of Monthly operating reports (MORs) and bacteriological samples. 	\$500
<ul style="list-style-type: none"> • Operating a public swimming pool without prior approval, proper licensure and/or inspection. 	\$500
<ul style="list-style-type: none"> • Failure to comply with an order of immediate discontinuance (contractor, owner, and/or other responsible party) 	\$500
<ul style="list-style-type: none"> • Creation of a condition of imminent danger or health hazard or nuisance as defined in the Regulations 	\$1,000
<ul style="list-style-type: none"> • Allowing sewage to accumulate on the surface of the ground or to flow into a body of water 	\$1,000

The amount of monetary penalty shall be doubled for a second citation for the same violation. Thereafter, each citation shall be a maximum of \$1,000 for each violation. When a violation of this Regulation or another law, regulation or rule which the Health Officer has the duty to enforce exists, and for which no specific monetary penalty has been published, the monetary penalty shall be \$500 for the first citation, \$1,000 for a second citation, and \$1,000 for any succeeding violation. A civil penalty imposed under this part is payable to Genesee County and shall be deposited with the Genesee County Treasurer and credited to the Health Department.

A civil penalty shall become final if a petition for an administrative hearing or review is not received within twenty (20) calendar days of its issuance. A civil penalty may be recovered in a civil action brought in the county in which the violation occurred or the defendant resides.

Section 1.120 VALIDITY AND SEVERABILITY OF SECTIONS - If any section, subsection, clause or phrase of the Regulations is for any reason adjudged unconstitutional or invalid, it is hereby provided that the validity of remaining provisions of the Regulations shall not be affected thereby. The Regulations shall not impair or affect any act done, offense committed, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred under previous County Regulation, to the time the Regulations take effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and as to the same extent as if the Regulations had not been passed.

Section 1.121 VARIANCES - The Health Officer shall be empowered to issue variances to specific provisions of the Regulations, provided all the following conditions exist:

1. That no substantial health hazard or nuisance is likely to occur therefrom;
2. That strict compliance with a requirement of the Regulations would result in unnecessary or unreasonable hardship to an appellant;
3. That no state or local statute or other applicable laws would be violated by such variance; and
4. That any such variance would provide essentially equivalent protection in the interest of the citizens of Genesee County.

Section 1.20 - INTERPRETATION

Section 1.201 INTERCHANGEABILITY - When not inconsistent with the context, words used in the masculine form include the feminine, or the reverse. 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.

Section 1.202 OTHER WORDS OR TERMS - The word “shall” is always mandatory and “may” is merely permissive. Words or terms not defined herein shall be interpreted in the manner of their common meaning.

CHAPTER II - ENVIRONMENTAL HEALTH BOARD OF REVIEW REGULATION

SECTION 2.00 - APPLICABILITY

The procedures which follow apply to persons who seek administrative review of a decision by the Health Department to deny, limit, suspend or revoke a license or permit other than a food service establishment license.

The hearing panel may, at its discretion, review requests for appeals of actions other than license or permit decisions taken by the Health Department.

Section 2.10 – HEARING PANEL –

The Health Officer and the Chair and Vice-Chair of the Human Services Committee of the Genesee County Board of Commissioners shall comprise the Genesee County Environmental Health Board of Review (sometimes hereinafter referred to as the “hearing panel”).

Section 2.101 COMPENSATION - The compensation of each member of the hearing panel shall be that sum established for regular Committee meetings by the Board of Commissioners within the limitations of Section 2444 of the Code, the cost of which may be charged back to the appellant or a reasonable appeal fee set for this purpose under Section 1.108 of the Regulations.

Section 2.102 DECISION VOTE – A decision of the hearing panel requires an affirmative vote of, at least, a majority of a quorum.

SECTION 2.20 - PROCEDURES

Section 2.201 NOTICE OF DECISION - Except as otherwise herein provided, notice of a decision to deny, limit, suspend or revoke a license or permit must be personally served on, or sent by first class mail to the last known address of, the licensee, permit holder, or applicant for a license or permit.

Section 2.2011 STATEMENT OF REASONS FOR DECISION - The notice must state the reasons for the decision to deny, limit, suspend or revoke a license or permit. The statement of reasons shall include a citation to a specific statute or rule violated or not complied with.

Section 2.2012 RIGHT TO SEEK REVIEW - The notice must also advise the licensee, permit holder, or applicant for license or permit of the right to seek review of the decision by the Genesee County Environmental Health Board of Review and of the procedures for obtaining such review.

Section 2.202 PETITION FOR REVIEW - Following service of the notice as provided in Section 2.201 above and, except as otherwise herein provided, an aggrieved licensee, permit holder or applicant for license or permit shall have thirty (30) calendar days in which to file a Petition for Review of the Decision. A filing fee will be required to accompany the petition in accordance with Sections 1.108 and 2.102 of the Regulations.

Section 2.2021 WEEKEND OR LEGAL HOLIDAY - If the last day on which the petition may be filed is a weekend or legal holiday, the licensee, permit holder or applicant for license or permit shall have until 5:00 p.m. of the next regular business day following such weekend or legal holiday in which to file petition for review.

Section 2.2022 FAILURE TO FILE - Failure by the licensee, permit holder or applicant for license or permit to timely file a petition for review shall cause the decision to become a Final Order of Immediate Effect.

In the event the order takes immediate effect, the Health Officer shall verify the status of the subject matter of the license or permit within the next business day. If the licensee, permit holder, or applicant is not in compliance with the Final Order, the Health Officer, may pursue other remedies as provided by law to secure immediate compliance, including but not limited to injunctive relief.

Section 2.203 SCHEDULING OF HEARING - Except as otherwise herein provided, hearings shall be held not more than twenty (20) business days following the day on which a petition for review is filed. Notice of the date, time, and place of the hearing shall be personally served on the licensee, permit holder or applicant for license or permit.

Section 2.204 PRE-HEARING CONDUCT - An aggrieved licensee, permit holder or applicant for license or permit shall not discuss details of the case with any member of the hearing panel before the hearing or shall not attempt to influence panel members in any way preparatory to release of a Final Order. If an aggrieved licensee, permit holder or applicant for license or permit believes they are in compliance prior to the hearing date, they may contact the Director of Environmental Health who will schedule a verification re-evaluation upon request, providing contact is made no later than 10:00 a.m. of the day before the hearing date. If the aggrieved party is found to be in full compliance, the hearing may be cancelled; if not, the hearing will be held as scheduled.

SECTION 2.30 - CONDUCT OF HEARING

Section 2.301 CONDUCT - The conduct of hearing before the Genesee County Environmental Health Board of Review shall conform as nearly as practicable to the Procedures in Contested Cases, Chapter 4, of the "Administrative

Procedures Act,” being Act 306, P.A. 1969, as amended [(MCLA 24.271 et seq.); (MSA 3.560 (171) et seq.)].

Section 2.302 PRESIDING OFFICER - The Health Officer shall be the presiding officer of hearings before the Genesee County Environmental Health Board of Review.

Section 2.3021 - The presiding officer shall perform the typical duties of a presiding officer in a contested case including, but not limited to, administering oaths and affirmations and ruling on objections, motions and the admissibility of evidence, with the assistance of legal counsel.

Section 2.303 RIGHTS - The parties (i.e., the health department and the aggrieved applicant or licensee to a contested case before the Genesee County Environmental Health Board of Review shall, among other things, have the right to direct and cross-examine witnesses, submit documentary evidence, redirect or recross examine witnesses and submit rebuttal evidence.

Section 2.304 TECHNICAL ASSISTANCE - The Genesee County Environmental Board of Review may request the technical assistance of governmental agencies and/or other experts in the appeals hearing.

Section 2.305 FINAL ORDER - A Final Order issued following a hearing shall be supported by and made in accordance with competent, material and substantial evidence in accordance with Act 306, P.A. 1969, as amended [(MCLA 24.285 et seq.); (MSA3.560(185) et seq.)]. The order may take the form of a decision to affirm, modify, or rescind the original decision. The Final Order may be issued before the panel adjourns or within fifteen (15) business days following the hearing.

If the disposition of a Final Order is to uphold a license or permit denial, suspension or revocation without extenuating circumstance, the Health Officer shall verify the status of the subject matter of the license or permit on the next working day and periodically thereafter. Upon discovery of a failure to comply with the Final Order, the Health Officer may seek appropriate remedy through the courts as may be determined with legal counsel.

CHAPTER III - FOOD LICENSING BOARD OF REVIEW REGULATION

Section 3.00 - APPLICABILITY

Pursuant to the MICHIGAN FOOD LAW OF 2000, ACT 92, AS AMENDED, The procedures which follow, apply to persons who seek administrative review of a decision by the health department to deny, limit, suspend or revoke a fixed or mobile food service establishment, temporary food service establishment, special transitory food unit, or vending machine location license.

Section 3.10 - HEARING PANEL

The Health Officer and the Chair and Vice-Chair of the Human Services Committee of the Genesee County Board of Commissioners shall comprise the Genesee County Environmental Health Board of Review (sometimes hereinafter referred to as the “hearing panel”).”

Section 3.101 COMPENSATION - The compensation of each member of the hearing panel shall be that sum established for regular Committee meetings by the Board of Commissioners within the limitations of Code, the cost of which may be charged back to the appellant or a reasonable appeal fee set for this purpose under Section 1.108 of the Regulations.

Section 3.102 DECISION VOTE - A decision of the hearing panel requires an affirmative vote of, at least, a majority of a quorum.

Section 3.20 - PROCEDURES

Section 3.201 NOTICE OF DECISION - Except as otherwise herein provided, notice of a decision to deny, limit, suspend or revoke a fixed or mobile food service establishment, transitory food unit, or vending machine location license must be personally served on, or sent by first class mail to the last known address of, the licensee or application for a license.

Notice of a decision to deny a temporary food service establishment license must be personally served on, or sent by first class mail to the last known address of, the licensee or application for a license. A notice of a decision to limit, suspend or revoke a temporary food service establishment license must be personally served on the licensee or applicant for license or on an appropriate representative of the licensee or applicant for license.

Section 3.2011 STATEMENT OF REASONS FOR DECISION - The notice must state the reasons for the decision to deny, limit, suspend or revoke a license of

the licensee or applicant. The statement of reasons shall include a citation to a specific statute violated or not complied with.

Section 3.2012 RIGHT TO SEEK REVIEW - The notice must also advise the licensee or applicant for license of the right to seek review of the decision by the Genesee County Food Licensing Board of Review and of the procedures for obtaining such review.

Section 3.202 PETITION FOR REVIEW - Following service of the notice as provided in Section 3.201 above and, except as otherwise herein provided, an aggrieved licensee or applicant for license shall have thirty (30) calendar days in which to file a Petition for Review of the Decision. A filing fee shall be required to accompany the petition in accordance with Sections 1.108 and 3.102 of the Regulations.

Section 3.2021 WEEKEND OR LEGAL HOLIDAY - If the last day on which the petition may be filed is a weekend or legal holiday, the licensee or applicant for license shall have until 5:00 p.m. of the next regular business day following such weekend or legal holiday in which to file petition for review.

Section 3.2022 FAILURE TO FILE - Failure by the licensee or applicant for license to timely file a petition for review shall cause the decision to become a Final Order of Immediate Effect.

In the event the order takes immediate effect, the Health Officer shall verify operational status of the establishment within the next business day. If the establishment is not in compliance with the order, the Health Officer may pursue other remedies, as provided by law to secure immediate compliance, including but not limited to injunctive relief.

Section 3.203 ORDER OF IMMEDIATE CESSATION OF OPERATION - The Health Officer may require immediate cessation of the operation of a fixed or mobile food service establishment, temporary food service establishment, transitory food unit, vending machine or vending machine location upon a determination that continued operation would create an imminent or substantial hazard to the public health under authority of MCL 289.2113.

Section 3.2031 EFFECT OF ORDER - An order of immediate cessation is effective upon service of the notice.

Section 3.2032 PETITION FOR REVIEW - A fixed or mobile food service establishment, temporary food service establishment, transitory food unit, or vending machine location licensee, aggrieved by a decision to require immediate cessation shall, within thirty (30) calendar days of service of the notice, file a petition for review in accordance with the procedures provided in this section.

Section 3.204 SCHEDULING OF HEARING - A hearing to review a decision to deny a food service establishment license shall be held not more than twenty (20) business days following the day on which a petition for review is filed. A hearing to review a decision to limit a food service establishment license shall be held not more than twenty (20) business days following the day on which a petition for review is filed. A hearing to review a decision to suspend a food service establishment license shall be held not more than ten (10) business days following the day on which a petition for review is filed. A hearing to review a decision to revoke a food service establishment license shall be held not more than ten (10) business days following the day on which a petition for review is filed. A hearing to review an order of immediate cessation of operation of a food service establishment shall be held not more than ten (10) business days following the day on which a petition for review is filed. Notice of the date, time, and place of the hearing shall be personally served on, or sent by first class mail to the last known address of, the licensee or applicant for license.

Section 3.205 PRE-HEARING CONDUCT - An aggrieved licensee or applicant for license shall not discuss details of the case with any member of the hearing panel before the hearing or shall not attempt to influence panel members in any way preparatory to release of a Final Order. If an aggrieved licensee or applicant for license believes he or she is in compliance prior to the hearing date, he or she may contact the Director of Environmental Health who will schedule a verification re-inspection upon request, providing contact is made no later than 10:00 a.m. of the day before to the hearing date. If the aggrieved party is found to be in full compliance, the restriction may be lifted by the Director of Environmental Health and the administrative hearing may be cancelled.

An aggrieved licensee or applicant for license may submit a written statement to the Director of Environmental Health for consideration by the hearing panel. Said statement shall be restricted to two pages in length and shall be submitted not later than 5 (five) business days before the scheduled hearing.

SECTION 3.30 - CONDUCT OF HEARING

Section 3.301 CONDUCT - The conduct of hearing before the Genesee County Food Licensing Board of Review shall conform as nearly as practicable to the Procedures in Contested Cases, Chapter 4, of the "Administrative Procedures Act," being Act 306, P.A. 1969, as amended [(MCLA 24.271 et seq.); (MSA 3.560 (171) et seq.)]

Section 3.302 PRESIDING OFFICER - The Health Officer shall be the presiding officer of hearings before the Genesee County Food Licensing Board of Review.

Section 3.3021 - The presiding officer shall perform the typical duties of a presiding officer in a contested case including, but not limited to, administering

oaths and affirmations and ruling on objections, motions and the admissibility of evidence with the assistance of legal counsel.

Section 3.303 RIGHTS - The parties (i.e., the health department and the aggrieved applicant or licensee) to a contested case before the Genesee County Food Licensing Board of Review shall, among other things, have the right to direct and cross-examine witnesses, submit documentary evidence, redirect or recross examine witnesses and submit rebuttal evidence.

Section 3.304 TECHNICAL ASSISTANCE - The Genesee County Food Licensing Board of Review may request the technical assistance of governmental agencies and/or other experts in the appeals hearing.

Section 3.305 FINAL ORDER - A Final Order issued following a hearing shall be supported by and made in accordance with competent, material and substantial evidence in accordance with Act 306, P.A. 1969, as amended [(MCLA 24.285 et seq.); (MSA 3.560 (185) et seq.)]. The order may take the form of a decision to affirm, modify, or rescind the original decision. The Final Order may be issued before the panel adjourns or within fifteen (15) calendar days following the hearing.

If the disposition of a Final Order is to uphold a license denial, suspension or revocation without extenuating circumstance, the Health Officer shall verify operational status of the establishment on the next business day and periodically thereafter. Upon discovery of a failure to comply with the Final Order, the Health Officer may seek appropriate remedy through the courts as may be determined with the assistance and advice of legal counsel.

CHAPTER IV - WATER WELL CONSTRUCTION, ABANDONMENT AND GROUNDWATER PROTECTION REGULATION

Section 4.00 PREAMBLE - It is hereby recognized that supply of safe potable water is fundamental to individual, public, and community health; that water supply facilities installed and operated in a proper manner are necessary for safeguarding public health; that water supplies furnishing water for human consumption need to be isolated and protected from sewage or other sources of pollution; that proper construction and abandonment of wells is an integral part of groundwater protection and that contamination of water resources and supplies, or the creation of conditions menacing the public health, should be prevented. This regulation governing water supplies is hereby adopted pursuant to Sections 2435 and 2441 of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, as amended, being Sections 333.2435 and 333.2441 of the Michigan Compiled Laws.

Section 4.01 SCOPE - This regulation shall apply to all premises in Genesee County, Michigan. This regulation shall not apply to Type I public water supplies,

as defined by Michigan's Safe Drinking Water Act, Act 399 of the Public Acts of 1976, as amended, being sections 325.1001 through 325.1023 of the Michigan Compiled Laws, and Administrative Rules promulgated pursuant to that Act.

Section 4.02 DEFINITIONS

Section 4.03 SAFE AND ADEQUATE WATER SUPPLY - Means a water supply which is constructed and located in such a manner as to provide water which will not endanger the health of the user and which provides sufficient water yield and pressure to operate all connected plumbing fixtures.

Section 4.04 - WATER SUPPLY - Means a system of pipes and structures through which water is obtained, including but not limited to, the source of the water such as wells, surface water intakes, or hauled water storage tanks; and pumping and treatment equipment, storage tanks, pipes and appurtenances, or a combination thereof, used or intended to furnish water for domestic or commercial use.

Section 4.05 - WELL - Means an opening in the surface of the earth for the purpose of obtaining ground water, monitoring the quality or quantity of ground water, obtaining geologic information on aquifers, recharging aquifers, purging aquifers, utilizing the geothermal properties of earth formations, or removing ground water for any purpose. Wells as defined in this section include, but are not limited to:

1. A water supply well used to obtain water for drinking or domestic purposes.
2. An irrigation well used to provide water for plants, livestock, or other agricultural processes.
3. 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.
4. A recharge well used to discharge water into an aquifer.
5. A dewatering well used to lower the ground water level temporarily at a construction site.
6. A heat exchange well used for the purpose of utilizing the geothermal properties of earth formations for heating or air conditioning.
7. An industrial well used to supply water for industrial processes, fire protection, or similar non-potable uses.

8. A fresh water well at an oil or gas well drilling site, when the fresh water well is to be retained after completion of the oil or gas drilling operation.

Section 4.06 - POWERS AND DUTIES OF THE HEALTH OFFICER

Section 4.061 – REGULATE - The Health Officer shall have the authority to regulate the design, installation, operation, maintenance, abandonment, and plugging of all water supplies under the jurisdiction of the Genesee County Health Department.

Section 4.062 ESTABLISH GUIDELINES - The Health Officer may establish procedures and guidelines concerning the interpretation of this regulation. Such procedures and guidelines may be subject to review and approval by the Genesee County Board of Commissioners.

Section 4.07 APPLICATION OF OTHER LAWS - The Genesee County Health Department incorporates by reference, and adopts as part of this regulation, the definitions and requirements with respect to water well construction, pump installation and well abandonment as set forth in:

- 1) The "Safe Drinking Water Act", Act No 399 of the Public Acts of 1976, as amended, being sections 325.1001 through 325.1023 of the Michigan Compiled Laws, and the following sections of Administrative Rules promulgated pursuant to that Act: Part 1, being R 325.10101 to R 325.10115; Part 4, being R 325.10401 to R 325.10409; Parts 7 and 8, being R 325.10701 to R 325.10833; and Parts 10 through 14, being R 325.11001 to R 325.11407 of the Michigan Administrative Code, and any subsequent revisions thereto, and
- 2) Part 127 of Michigan's Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.12701 through 333.12715 of the Michigan Compiled Laws, and the administrative rules promulgated pursuant to that Act, being R 325.1601 through R 325.1676 of the Michigan Administrative Code, and any subsequent revisions thereto.

Section 4.08 WATER SUPPLY CONSTRUCTION PERMIT REQUIRED - No person shall begin construction of a new water supply, or make extensive changes to existing water supplies, without first obtaining a construction permit from the Genesee County Health Department. Permit application shall be made at least three (3) business days prior to construction. Extensive changes include replacing the well casing, removing a well casing from the ground, changing aquifers or sources of water, changing screen elevation, deepening or plugging back a bedrock well, changing the pump type, installing a liner pipe, and a significant increase in the capacity of the water supply.

Section 4.09 PERMIT APPLICATION PROCEDURE

Section 4.091 Application - Forms are available at the Department. The application forms and required fee must be received in person or by mail as noted in section 5.0. Application shall consist of:

- 1) Name of well drilling contractor
- 2) Property owner and mailing address
- 3) Township and street address of well location
- 4) Date of proposed construction
- 5) Scaled site plan showing:
 - a) Scale used and North direction
 - b) Lot lines, easements, and deed restrictions
 - c) Surface water (lakes, ponds, rivers, ditch, etc.)
 - d) Location of house, outbuildings, driveway
 - e) Location of proposed well and any other wells within 50' of the property line
 - f) Location of all buried sewer lines, septic tanks, drain fields within 50' of the property line
 - g) Location of all other sources of contamination within 800' of the property line (such as: active area of landfill, land or subsurface application of septage or sludge waste, oil or gas wells, petroleum product processing or storage, fertilizer or agricultural chemical preparation/ storage, outhouses, animal or poultry yards)

Section 4.092 DENIAL OF PERMITS - The Health Officer may deny a permit or issue a restricted permit under one or more of the following conditions:

- 1) When incomplete, inaccurate or false information is provided by the applicant.
- 2) When the proposed water supply system or water supply well will not comply with Part 127 of Act 368, P.A. 1978, as amended or Act 399 of 1976 as amended.
- 3) Where the proposed location of the proposed water supply system or water supply well is in an area where the Michigan Department of

Environment, Great Lakes and Energy has issued an advisory against the use of water supply wells in the area or if the location is within a service area defined by the Michigan Department of Environmental Quality pursuant to R299.5409 as amended unless special well construction techniques or screening of a well at a depth not affected by contamination would allow the well to be isolated from the contamination which resulted in the issuance of an advisory or the establishment of a service area by the Michigan Department of Environmental Quality.

- 4) Where a water supply system or water supply well is proposed to be served by groundwater which the Health Department has knowledge is contaminated or likely to be contaminated by a hazardous substance in excess of the residential drinking water criteria unless special well construction techniques or screening of a well at a depth not affected by contamination would allow the well to be isolated from the contamination. Hazardous substance and residential drinking water criteria have the same meaning as when those terms are used in Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. When the Health Department has made such a determination, the Health Department shall make available to the public, upon request, a map of the area affected by this determination.
- 5) Other circumstances or conditions which the Health Officer believes may be detrimental to an individual or the public's health.

Section 4.10 LATE APPLICATION PENALTY - If a person fails to make application for a well construction permit from the Genesee County Health Department at least three (3) business days prior to beginning construction of a water supply, a penalty fee equal to the regular application fee shall be assessed. Within five (5) business days of being notified of the violation, the person shall submit the regular application fee and the penalty fee to the Health Officer. Payment of the penalty fee shall not exempt said person from any further penalties prescribed for violation of this regulation. The Department shall not be liable for costs already incurred prior to permit issuance.

The Health Officer may waive the penalty fee when, upon consideration of relevant facts and circumstances, said penalty fee constitutes an undue hardship on the applicant.

Section 4.11 ABANDONMENT OF NEWLY CONSTRUCTED WELLS - The Health Officer may require the abandonment and plugging of a well that is constructed without prior notification or is constructed in violation of this regulation.

Section 4.12 ABANDONMENT OF PREVIOUSLY CONSTRUCTED WELLS -

When a well becomes abandoned, it must be properly plugged. If the well is not properly plugged for justifiable reason (being used as a secondary water source, temporarily inaccessible, etc.) the Health Officer may file an affidavit with the Genesee County Register of Deeds so a permanent record is created which states an unplugged well exists on that parcel of land.

Section 4.13 WATER SUPPLY AND GROUNDWATER CONTAMINATION -

The Health Officer may take any legal means necessary to prevent or eliminate water supply and groundwater contamination caused by, but not limited to, wells, abandoned wells, and water supplies.

Section 4.14 WATER SAMPLING - In accordance with R 325.1661 of the Michigan Administrative Code, the well drilling contractor shall notify the water supply owner of the owner's responsibility to collect one or more water samples from the sampling faucet prior to placing the water system into service. Organisms of the coliform group shall not be present in the sample(s).

Section 4.15 INSPECTION - The Health Officer may make inspections of water supplies during and/or after completion of construction as deemed necessary. A new water supply shall not be put into service until:

- 1) 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.
- 2) The Health Officer has received copies of the results of water samples indicating the raw water quality meets minimum public health standards. Water sample analyses shall include coliform bacteria and any other parameter deemed necessary by the Health Officer.
- 3) The water supply system is found to be in compliance with applicable code and permit requirements.

Section 4.16 STOP WORK ORDER - If the Health Officer determines that a water supply under construction does not comply with the requirements of this regulation, the Health Officer may issue a written stop work order. Work shall not resume until the owner and/or contractor have agreed to make corrections to comply with this regulation, and the Health Officer rescinds the stop work order.

Section 4.17 - EMERGENCY CONDITIONS - In the event an emergency arises where the lack of water will result in undue hardship and the office of the Genesee County Health Department is closed, or when the well driller is involved with repair work and it is deemed necessary to begin construction immediately on a new well, a registered well driller may begin extensive changes to or construction of a new water supply without notification or permit. The well driller

shall contact the Health Officer on the next regularly scheduled business day to notify of such installation. The late penalty specified in SECTION 7.0 of this regulation may be waived in these cases.

Section 4.18 –VIOLATION OF THE REGULATION - A person who violates a regulation is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$200, or both.

Section 4.19 EFFECTIVE DATE - This regulation shall become effective on May 1, 1999.

Section 4.20 RIGHT OF ENTRY AND INSPECTION - No person shall refuse to permit the Health Officer, after proper identification, to inspect any premises in accordance with Section 2446 of Michigan 's Public Health Code, Act 368 of the Public Acts of 1978, as amended, nor shall any person molest or resist the Health Officer in the discharge of those duties and the protection of the public health.

Section 4.21 VALIDITY - In the event any section, paragraph, sentence, clause, or phrase of these rules and regulations may be declared unconstitutional or invalid for any reason, the remainder of said rules and regulations shall not be affected thereby.

Section 4.22 INJUNCTION OR OTHER PROCESS - Notwithstanding the existence and pursuit of any other remedy, the Health Officer may maintain an action in the Name of Genesee County in a court of competent jurisdiction for injunction or other appropriate process against any person to restrain or prevent a violation of these regulations.

Section 4.23 FEES - The schedule of fees authorized by these regulations is established by the Health Officer, in accordance with Section 2444 (1) of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, as amended. Fees paid to the Genesee County Health Department shall be credited to the Genesee County Health Department account with the County Treasurer. The fees charged shall not be more than the reasonable cost of performing the service.

Section 4.24 APPEALS - Matters related to interpretation of the State of Michigan's well construction and pump installation statute and administrative rules are not within the jurisdiction of the Genesee County Environmental Health Board of Review.

CHAPTER V - BATHING BEACH REGULATION ON SAFETY, RESCUE, AND COMMUNICATION EQUIPMENT

Section 5.00 DEFINITION - A Public Bathing Beach shall be defined as an area of land, accessible to the public, bordering on a body of water which:

- 1) Is used collectively by a number of individuals primarily for the purpose of swimming, or wading;
- 2) Provides a lifeguard on duty;
- 3) Is sanctioned and generally recognized as intended for use by the public; and
- 4) Has a designated swimming area.

Section 5.10 BACKGROUND AND AUTHORITY - Part 125, Section 12542, of the Code, requires the provision of a minimal safety equipment at public beaches. The owner or person in charge of a public bathing beach must provide and maintain suitable and adequate safety and rescue equipment and a means of communicating with outside sources of assistance at any time the beach is open to the public. This Regulation specifically defines a Public Bathing Beach and sets forth minimum requirements thereto.

Section 5.20 MINIMUM REQUIREMENTS - As a minimum, each beach must provide:

- 1) Safety and rescue equipment to include a life ring, buoy or other flotation device attached to a length of rope suitable to reach across the width of the designated swimming area, a six foot spine board with ties, and a Sixteen (16) unit first aid kit. Rescue devices shall be Red Cross approved or equivalent and shall be maintained in proper working condition.
- 2) Suitable means of communication to include a two-way radio, an available telephone on the grounds, or a means of obtaining outside assistance which can be demonstrated to the satisfaction of the Health Officer.

CHAPTER VI - SEWAGE DISPOSAL REGULATION

PREAMBLE

Recognizing that the sanitary and safe disposal of human sewage wastes is fundamental to individual, public and community health; further recognizing that public sewerage facilities installed and operated in a proper manner are considered the only acceptable means for safeguarding public health in urban situations; still further recognizing that inherent operational limitations and temporary nature of individual, private, sewage disposal systems demand their use only under rural and isolated conditions, and insofar as possible, to prevent the creation of nuisances, sources of filth, and conditions menacing the public health, this Regulation and these standards for the disposal of sewage wastes and human excrement are hereby established as follows:

Section 6.00 - DEFINITIONS

Section 6.001 ABSORPTION FIELD, TRENCH, OR BED - Means a method of distributing septic tank effluent or overflow below the ground surface by means of a line or a series of lines of drain tile laid on a bed of stone (or other approved methodology), with openings so as to allow the effluent or overflow to be absorbed by the surrounding soil.

Section 6.002 AVAILABLE SANITARY SEWER - If a sanitary sewer is within three hundred (300) feet of any part of a premises, then the sewer is considered available to that premises for the disposal of sewage.

Section 6.003 DOSING CHAMBER - Means a watertight tank or receptacle used for the purpose of retaining the overflow or effluent from a septic tank, pending its automatic discharge to a selected point.

Section 6.004 FILL SAND OR FILTER MATERIAL - Means medium to coarse clean sand, unless otherwise specified, as part of a permit condition and approved by the Health Officer.

Section 6.005 FLOOD PLAIN - Means the elevation of the contour defining the flood plain limits of any area subject to hypothetical or actual flooding or inundation based on a historical recurrence frequency period of once in about one hundred (100) years.

Section 6.006 GROUND WATER - Means the water in the ground that is in the zone of saturation.

Section 6.007 HIGH GROUND WATER ELEVATION - Means the elevation of the upper surface of the zone of saturation as may occur during the normally wet periods of the year.

Section 6.008 LOW VOLUME FIXTURES - Means faucets or showers with a flow rate of not greater than 2.75 gallons per minute (gpm) at 20-40 pounds per square inch (psi) and toilets that utilize 3.5 gallons or less per flush.

Section 6.009 PERMEABILITY - Means the capability of a soil to transmit water and/or air.

Section 6.010 PRIVY - Means all “outhouses”, buildings or other structures which are not connected with a sewerage system or with a sewage disposal system and which are used for the reception, disposition or storage, either temporarily or permanently, of feces or other excreta from the human body.

Section 6.011 SEPTIC TANK - Means a water-tight receptacle used for the purpose of receiving all sewage and so designed to permit the collection of solids from such wastes and to permit such solids to undergo decomposition therein, permitting the effluent to overflow in a controlled manner to an approved disposal system.

Section 6.012 SEWAGE OR WASTEWATER - Means all the residential, commercial and industrial water-carried wastes from any premises.

Section 6.013 SEWAGE DISPOSAL SYSTEM - Means the method of controlled disposal of sewage by means of a sewer line connected to a septic tank or tanks, and an absorption field, trench or bed or any other device approved by the Health Officer.

Section 6.014 SEWAGE SYSTEM FAILURE - Means a situation where any one of the following conditions exist:

- 1) The system refuses to accept effluent at the rate of application.
- 2) Sewage or effluent seeps from, or ponds on the ground surface.
- 3) The system contaminates a potable well or surface waters of the State.

Section 6.015 SEWER - Means a water-tight conduit for carrying sewage.

Section 6.016 SOILS EVALUATION - Means on-site investigation to evaluate the suitability of a site (specific location on each site) to support an adequate sewage disposal system.

Section 6.017 SURFACE WATER - Means a body of water whose top surface is exposed to the atmosphere including a flowing body, ponds or lake, drains, rivers, streams, ditches, either natural or constructed.

Section 6.018 UNSANITARY CONDITION, NUISANCE OR HEALTH HAZARD - Means any structure or condition which the Health Officer reasonably believes to be a potential cause of illness, poses a threat to the health of the public, pollutes any stream or other body of water

Section 6.019 OTHER DEFINITIONS - Other technical definitions not described herein but which may be used in this Regulation shall mean the most commonly recognized interpretation of description of the technical term used in the environmental health profession.

Section 6.10 - AUTHORITY AND ADMINISTRATION

This Regulation is hereby adopted and provided separately and as a part of the Regulations pursuant to authority conferred upon local health departments by Section 2441 (1) of the Code. The following Regulation is to govern the installation and maintenance of private, semi-private, and public sewage disposal systems where no municipal sewage facility is available; and to prohibit the platting of property inadequate for such installation. This Regulation is adopted and provided for the express purposes of protecting the health, safety, and welfare of the people of Genesee County, it having been determined by the Board of commissioners that the installation of private, semi-private and public sewage disposal systems which do not meet the minimum requirements of this Regulation constitutes a present danger and menace to the health, safety and welfare of the people of Genesee County.

Section 6.20 - PLATS

This Section incorporates by reference "The Subdivision Control Act", being Act 288, P.A. 1967 as amended (MCL 560.101 et seq.) and Rules of the Michigan Department of Public Health (R.560.401 - R.560.405). From and after the effective date of this Regulation, no plat shall be approved by the Health Department where such plat is not served by a public water supply system and a public sewerage system unless the requirements of the above cited Act and Rules have been met and fully complied with by the owners of the plat.

Section 6.30 - SEWAGE DISPOSAL SYSTEMS

Section 6.301 PERMIT REQUIRED - From and after the effective date of this Regulation, it shall be unlawful for any person to construct, alter, repair or extend any on-site sewage disposal system within Genesee County, unless he has a permit issued by the Health Officer for the specified construction, alteration, repair or extension, and it shall be unlawful for any person to construct, rebuild,

move onto any parcel of land, occupy, or use, any premises which is not equipped with adequate facilities according to the provisions of this Regulation for the sanitary and safe disposal of sewage. The Health Officer shall determine whether the land is suitable for on-site sewage disposal.

If a proposed building has a sewage disposal system constructed according to the provisions of this Regulation which is adequate to serve the proposed building, the Township Officer shall be notified by the Health Officer in writing and no permit is required. In instances where the structure has no internal plumbing facilities for water-carried sewage and where no intent to occupy exists as certified by the landowner (such as a pole barn, shed and the like), a sewage disposal permit shall not be required. A deed restriction shall be placed on file to this effect. Future conversion or development of any potentially habitable building and/or site shall be subject to compliance with all provisions of this Regulation and a permit shall be required prior to occupancy of that site.

Section 6.3011 APPLICATION FOR SITE SUITABILITY EVALUATION AND APPLICATION FOR A PERMIT - An application for a site suitability evaluation and an application for a permit shall be required for any installation and shall be in writing and signed by the applicant. Applications and/or accompanying data shall be made on forms provided by the Health Officer. A completed application must be submitted before the Health Officer will respond for an on-site evaluation.

Section 6.30111 INFORMATION REQUIRED - A complete plan of the proposed disposal system with such substantiating data as the Health Officer may require shall be submitted when applying for a permit. A legal description of the property and a detailed and legible plot shall accompany the application.

The Health Officer may require, as part of a soils evaluation, information including but not limited to engineering plans or drawings, topographic maps of a site indicating surface relief and/or grade elevations, soil analyses, additional soil test borings, percolation tests, ground water and flood elevations, and so forth.

Section 6.30112 CHANGE OF USE – It shall be unlawful to convert or change the intended use of a building premise from which the sewage treatment system was designed without the prior written approval of the Health Officer.

Section 6.3012 ISSUANCE OF PERMIT - The Health Officer shall issue a permit for on-site subsurface sewage disposal within a reasonable period of time, providing all of the conditions of acceptance have been met. In cases where all conditions specified above have not been met, a permit, issued under the variance clause of Section 6.701 of this Regulation may be considered.

Section 6.30121 BUILDING PERMIT – A building permit shall not be issued by the local building authority until a valid permit for construction of an on-site sewage disposal system has been issued by the Health Officer.

Section 6.3013 DENIAL OF PERMIT - The Health Officer shall deny the issuance of a permit when provisions of this Regulation or applicable criteria cannot be met.

Section 6.3014 VOID PERMITS - The permit for a private or commercial sewage disposal system may be declared void by the Health Officer if the location of the disposal system, specified on the permit is altered, or if there is any increase in the scope of the project prior to, during, or following construction of said system, or if the Health Department acquires new information that the previous permit approval site does not satisfy the requirements of this Regulation.

It shall be a violation of this Regulation to misrepresent, omit, or withhold pertinent information upon which the minimum requirements contained in this Regulation are based. The Health Officer may void any permit when he has reasonable cause to believe that an intentional misrepresentation has occurred.

Section 6.3015 TRANSFER OF PERMITS (New Owner) - Permits may be transferred from person to person upon written request and notice of change to the Health Department and payment of the prescribed transfer fee, providing the home/business/structure, conditions and construction remain and are certified as being the same as originally specified. Any change of conditions will invalidate the original permit and a new permit shall be required.

Section 6.3016 SEASONAL RESTRICTIONS (MORATORIUM) - After the effective date of this Regulation, no site evaluation for permit, nor sewage disposal system installation, except to abate a public health nuisance, shall occur under conditions or during periods established by the Health Officer. The Health Officer may grant written permission on an individual basis during the restricted period or season if site, weather and ground conditions are suitable. The installation of a temporary system may be considered (See Section 6.3017).

Section 6.3017 HOLDING TANK – “Pump-and-Haul” as a means of disposal from holding tanks for new construction shall not be permitted. “Pump-and-Haul” may, at the Health Officer’s discretion, be used to alleviate a hazard from an existing structure on a temporary basis until an acceptable means of sewage disposal is available. Temporary, for the purposes of this section, means a duration not to exceed nine (9) months.

Section 6.3018 FEES - Fees shall be charged according to the current fee schedule as may be adopted and periodically updated by the Board of Commissioners.

Section 6.3019 PERMIT EXPIRATION - Permits shall become void and expire twelve (12) months from the date of issuance thereof. The permit may be renewed, but will be subject to any intervening changes in this Regulation.

Section 6.302 INSPECTION REQUIRED - Within the jurisdiction of township, village or city units of government of Genesee County, the responsibility for inspection of any septic tank, disposal field or other underground appurtenances before covering shall be that of the Health Officer. After the effective date of this Regulation, it shall be a violation of this Regulation for anyone to occupy or use any premise before obtaining an acceptable certification of the sewage disposal system.

After construction of the sewage disposal system has been completed and before any portion of the system has been covered and/or placed in operation, an inspection will be made after notification to the Health Officer that the system is ready for inspection. The Health Officer may deny final approval of any installation which does not comply with any permit condition, or is of faulty workmanship and/or construction materials, or otherwise does not meet requirements of this Regulation.

It shall be unlawful to backfill any septic tank and/or tile disposal installation until an approval has been granted by the Health Department. Should the installer be notified by the Health Officer to backfill the system when an inspection cannot be conducted, the installer in such an instance shall furnish a written statement to the Health Officer, certifying that the system was installed exactly as shown on the permit or describing exactly any deviations therefrom.

Section 6.303 BACKFILLING DISPOSAL SYSTEM - After approval of the disposal system by the Health Officer, the disposal system shall not be allowed to remain open for longer than Seventy-two (72) hours, unless otherwise approved by the Health Officer.

Section 6.304 CONNECTIONS REQUIRED - All plumbing fixtures such as flush toilets, urinals, lavatories, sinks, bathtubs, showers, laundry tubs, automatic washers, or any similar fixtures used to receive or conduct water-carried wastes or sewage shall be connected to a septic tank or to some other device in a manner approved by the provisions of this Regulation and the Health Officer. Footing drainage or sump water shall not be drained to the septic tank or subsurface disposal field. Further, water softener wastes, footing drainage, sump water, curtain or perimeter drains, and storm water from down spout discharges shall be drained away from the area of the septic tank and subsurface disposal field.

Section 6.305 DIVERSION VALVES AND PUMPS IN CONNECTION WITH LAUNDRY TUBS AND SUMPS - Diversion valves shall not be allowed on the discharge pipe of sump pumps receiving waste water or sewage from plumbing

fixtures or appliances such as laundry tubs or automatic washers. When plumbing fixtures or appliances are installed in basements or cellars, it shall be necessary to install a separate pump to be used for no purpose other than pumping water carried wastes directly to the septic tank, unless gravity flow is possible.

Section 6.306 MAINTENANCE AND CONDEMNATION OF INSTALLATIONS -

Every private and commercial sewage disposal system shall be maintained in a satisfactory operating condition at all times. A sewage disposal system which is not in accordance with this Regulation, or where the effluent therefrom is exposed to the surface of the ground or is permitted to drain on to the surface of the ground or into any surface water, or where the seepage of effluent therefrom may endanger a public or private water supply, or where a public nuisance is created by a system improperly constructed or maintained, is deemed to be a noncomplying system. The Health Officer may declare unfit for habitation, condemn and so post any premises connected to a noncomplying sewage disposal system until satisfactory remedy can be demonstrated, and order the premises vacated. An individual sewage disposal system so condemned shall be repaired, rebuilt or replaced by a system constructed according to the provisions of this Regulation within a period of time specified by the Health Officer. In the alternative and absent proper remedy, the premises may be ordered permanently vacated, in the interest of protection of the public health.

It shall be unlawful to dispose or discharge to the sewage disposal system septic system cleaners or other products or chemicals which pose a threat to ground water quality.

If the Health Officer has reason to believe that an onsite sewage disposal was improperly installed, the previously approved permit can be revoked.

Section 6.307 PUBLIC OR PRIVATE DRAIN OF UNKNOWN COURSE AND ORIGIN -

Whenever the Health Officer shall determine that improperly treated sewage is flowing from the outlet of any public or private drain of unknown course and origin, he may issue public notices requiring person owning premises from which such sewage originates, to connect such sewage flow to a publicly operated sewerage system, if available, or in the absence thereof to comply with the provisions of this Regulation. Public notice shall consist of the posting of at least two (2) conspicuous notices in the probable area served by said drain. After not less than ten (10) calendar days following posting of the notices the Health Officer may plug or cause to be plugged, the outlet of said drain, until such time as the sources of the sewage have been located. Owners of properties known to be discharging improperly treated sewage in such drain posted by the Health Officer, shall be given written notice of corrections required with the time allowed by the posted notices and shall be responsible for bearing the costs of plugging outlets. Failure to comply shall be considered a violation of

this Regulation. No liability for damages caused by compliance with this Section shall accrue to the Health Department or any employee thereof.

Section 6.308 MUNICIPAL SEWER CONNECTIONS - Where a publicly operated system for collection and disposal of sanitary sewage is available, the utilization of such public sewerage system shall be considered the only safe and sanitary means for liquid waste disposal. NO privy, septic tank or other private means of sewage or excreta disposal shall be maintained or used on property having a sanitary sewer available; provided, however, that all connections and discharges to a public sewerage system shall be in accordance with the regulations of the municipality operating and maintaining such sewerage system. Where an approved public sewer is available all new buildings shall be connected to such public sewerage system at the time of construction. When an approved public sewer becomes available, existing premises shall be connected to same for valid public health reasons at such time as may be deemed necessary by the Health Officer. When connection to sanitary sewer is made, the septic tank(s) shall be properly abandoned in accordance with procedures established by the Health Officer.

Section 6.309 LOCATION - All private sewage disposal facilities shall be located wholly upon the property served except that under certain conditions where suitably executed and recorded easements or rights-of-way agreements exist this provision may be waived. In no case shall more than one dwelling or workplace be served by a single sewage disposal facility.

Section 6.310 SEWAGE TREATMENT PLANTS - Nothing in this Regulation shall prevent the construction of sewage treatment plants in accordance with approved plans, discharging treated effluent to an approved outlet, and operated in such a manner that there is no menace to the public health, or unlawful pollution of waters of the state; notwithstanding existing systems operating under a National Pollution Discharge Elimination Permit for surface water discharges shall also be permitted.

Section 6.311 ORDER OF IMMEDIATE DISCONTINUANCE - The Health Officer may require immediate discontinuance of any operation or construction of a sewage disposal system, upon determination that continued operation or construction would create a substantial hazard to public health or be in direct violation of this Regulation.

Notwithstanding, in instances where construction has proceeded unlawfully and without a valid permit, the Health Officer shall issue a "Stop Work Order" requiring immediate discontinuance of said construction. Noncompliance with such order shall be a violation of this Regulation.

SECTION 6.40 - PRIVIES AND SIMILAR TOILET DEVICES

Section 6.401 GENERAL - All privies and similar toilet devices shall be subject to inspection and approval by the Health Officer prior to their use, construction and/or installation. These devices shall be maintained, operated and constructed in an acceptable manner at all times and in accordance with provisions of Section 12771 of the Code and Administrative Rules promulgated therefrom, and shall not create a nuisance condition. The construction of said sewage disposal devices shall require a permit issued by the Health Officer.

Section 6.402 PROHIBITION - No privy shall be maintained or be constructed on or moved to any premises as a permanent means of sewage disposal except as otherwise approved by the Health Officer.

Section 6.403 TEMPORARY USE - Temporary privies used at construction sites, places of public assembly, camps, and so forth, shall comply with Section 12771 of the Code, and when cleaned or serviced, the person performing such service shall comply with Act 181, P.A. 1986, as amended (MCL 325.311 et seq.).

Section 6.404 LOCATION, CONSTRUCTION AND DEPTH - Privies shall be located, constructed and installed in accordance with applicable provisions of the Construction Standards.

Section 6.50 - SEWAGE DISPOSAL SYSTEMS FOR COMMERCIAL AND OTHER THAN SINGLE OR TWO-FAMILY DWELLINGS

Section 6.501 MICHIGAN CRITERIA - The "Michigan Criteria for Subsurface Sewage Disposal," in accordance with the Water Resources Commission Policy Statement adopted September 22, 1977 (and as may be subsequently updated or amended) shall be the basis for acceptance or rejection of proposed sewage disposal systems for other than single or two-family residences, regulated in this Section and are incorporated by reference in this Regulation.

Section 6.60 - CONSTRUCTION STANDARDS - RESIDENTIAL

Section 6.601 CONSTRUCTION STANDARDS AND PROGRAM PROCEDURES - On-site sewage disposal systems for private single and two-family dwellings shall meet the Construction Standards as set forth by the Health Officer and are incorporated by reference in this Regulation. Further, the Health Officer may develop internal policy and procedure to effectively carry out the intent of this Regulation.

Section 6.70 - VARIANCES

Section 6.701 HARDSHIP, VARIANCE, OR ALTERNATE METHODS - A variance to specific provisions of this Regulation, such as use of available sanitary sewer or an alternate method of sewage disposal may be approved by

the Health Officer if it demonstrates equivalence to the minimum requirements or if it will meet the objectives of this Regulation. When the Health Officer determines that public health would not be jeopardized, or no potential public health nuisance created, or in instances of hardship, a variance may be approved, specifying any additional conditions deemed necessary.

Section 6.702 APPROVAL OF VARIANCE - A variance shall be approved in writing by the Health Officer before a system is constructed or installed. Such approval shall specify details of construction, or all related factors affecting the installation.

CHAPTER VII – SEWAGE DISPOSAL SYSTEM CONTRACTORS LICENSING

SECTION 7.00 – DEFINITIONS

Section 7.001 INSTALLING – Means the construction, alteration, modification, building or digging, excavating, adding to, changing, trenching, filling, extending, setting in place, connecting up, fixing into position for use or ready for use of any septic tank, septic tank excavation or hole, absorption field, disposal trench, or other surface or sub-surface sewage disposal system; placement of stone, tile or other materials in absorption fields or leach beds, or other sub-surface trenches, fields, beds, holes or excavations.

Section 7.002 INSTALLER – Means any person, who for a fixed sum, price, fee, percentage, valuable consideration or other compensation, other than wages, undertakes with another, the repairing or repair, or installing or installation of septic tanks or treatment devices, seepage pits, tile fields, or other surface or sub-surface sewage disposal systems within Genesee County. Excluded are manufacturers of septic tanks, tile, stone processors and persons making delivery of these products to the job site, provided they do not install such products.

Section 7.003 REPAIRING – Means the making of alterations, modifications, additions, changes, corrections, repairs, building, installing, adding of materials to sub-surface or surface facilities or septic tanks or treatment devices, correction of deficiencies occasioned by malfunctioning, non-functioning, inadequate functioning of sub-surface or surface facilities or septic tanks or treatment devices.

Section 7.10 – AUTHORITY AND ADMINISTRATION

This Regulation is hereby adopted and provided separately and as a part of the Regulations pursuant to authority conferred upon local health departments by Section 2441 (1) of the Code. The purpose of this Regulation is to prevent the spread of infectious and contagious diseases; to license and require bonding of

persons engaged in installing, extending or repairing on-site sewage disposal systems, by the Health Department; and to provide penalties for the violation of this Regulation, it having been determined by the Board of Commissioners that improperly installed, repaired, or extended sewage disposal systems for private, commercial or institutional use (other than municipal systems), constitutes a danger and menace to the health, safety and welfare of the people of Genesee County, Michigan.

Section 7.20 – LICENSE

It shall be unlawful for any person to engage in or carry on the business of installing or repairing on-site sewage disposal systems within Genesee County unless duly licensed and bonded as hereinafter provided. Installers shall be required to successfully pass the installer exam every three years to stay current with changes in the Genesee County Sewage Disposal Construction Standards.

Section 7.201 LICENSE EXCEPTION – Nothing in this Regulation shall be construed to require a license for property owners to install or repair their own on-site sewage disposal systems, provided such alterations or modifications are performed in accordance with the Regulations. Property owners installing or repairing their own on-site sewage disposal system shall be required to successfully pass the installer exam before proceeding with the project. Home owners installing their own on-site sewage disposal systems shall be required to sign a document holding Genesee County harmless, in the event of premature field failure.

Section 7.30 – APPLICATION

Each person engaged in such business for the purposes aforesaid shall file an application directly with the Health Officer with such information as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be conducted. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information the Health officer may require.

Section 7.40 – FEE AND BONDS

The application to engage in the business as herein defined shall be accompanied by an annual license fee as established by schedule, payable to the Health Department. The application for such license shall be made to the Health Department prior to January 1 of each year, and shall be accompanied by a Michigan company surety bond, or with such sureties, form and sufficiency as shall be approved by the Health Officer, covering the period for which the license shall be issued to indemnify persons for whom service and maintenance work is performed. Such bonds shall be \$35,000.00 for licensee who is a resident of the

State of Michigan , and \$70,000.00 for licensee who is a non-resident. The Health Officer shall be the obligee, and the bond shall be for the benefit of and for the purpose of protecting any person or persons damaged by faulty workmanship in the installation or repair of on-site sewage disposal systems and shall guarantee the appearance of the licensee to answer any warrant within fifteen (15) calendar days of notice to the bonding company of the issuance of such warrant. Such bonds shall be conditioned upon the performance of the services in a safe, good workmanlike manner, and in compliance with the Sewage Disposal Regulation provisions of the Regulations. If the Health Officer, after such investigation as he deems necessary, is satisfied that the applicant has successfully completed the application materials, provided an acceptable surety bond, and has the qualifications, experience, and equipment to perform the services in a manner not detrimental to safety and public health, and meets such other conditions as may from time to time be determined to be in the interest of the public's health, shall issue or cause to be issued a license for the said business.

Section 7.50 – FAILURE TO COMPLY WITH REGULATIONS

The Health Officer shall have the authority to deny, suspend, limit, revoke or refuse to renew a license in any case where he finds that there has been a failure to comply with the provisions of this Regulation, and any local or state rules and regulations or laws of the State of Michigan relating to public health.

Section 7.60 – INSTALLATION OF NEW SYSTEMS

No person shall install a private, commercial or institutional, (other than municipal), sewage disposal system in Genesee County unless in accordance with the standards and provisions required in the Regulations.

Section 7.70 – EXISTING SYSTEMS

No person shall install, repair or alter, or extend any private, commercial or institutional (other than municipal) sewerage disposal system in Genesee County unless in accordance with the standards and provisions of the Regulations.

Section 7.80 – IDENTIFICATION OF EQUIPMENT

All equipment such as tractors, trenchers, and trucks used in connection with the installation, repairing, alteration, or extending of a sewage disposal system shall be identified with a current year insignia provided by the Health Department, to indicate the installer is licensed in Genesee County.

Section 7.90 – WORKMANSHIP

All work done on sewage disposal systems in Genesee County shall be in accordance with the Genesee County Environmental Health Regulations, as noted in Chapters VI and VII shall be performed in a workmanlike manner and the property served left in a safe and sanitary condition, free from any unprotected holes such as dry wells, and the premises free of any pooled sewage, sludge, or septic tank effluent.

CHAPTER VIII—ENVIRONMENTAL IMPROVEMENT REGULATION

Section 8.00 – DEFINITIONS

Section 8.001 ASHES – Means the residue from the burning of wood, coal, coke, or other combustible materials.

Section 8.002 GARBAGE – Means putrescible rejected food waste including waste accumulation of animal, food, or vegetable matter used or intended for food or that intended for the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable, including cans, containers and wrappings wasted therewith, is considered “garbage”.

Section 8.003 HAZARDOUS MATERIALS – Means waste material or a mixture of various waste materials because of its quantity, concentration or chemical characteristics, is toxic, corrosive, flammable or an irritant and may cause substantial damages or injury to humans, animals or the environment resulting from the disposal of the waste or mixture of waste. Hazardous wastes include but are not limited to waste oils, salt brines, drugs, pesticides, chemicals and those liquids used for road oiling or dust control.

Section 8.004 LITTER – Means “garbage”, “refuse”, and “rubbish”, as herein defined, and all other waste material which, if thrown or deposited in an unapproved or unauthorized area as herein prohibited, tends to create a danger to public health, safety or welfare or a condition of nuisance.

Section 8.005 REFUSE – Means all putrescible and non-putrescible solid waste (except body waste and sewage waste) and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street sweepings and solid market and industrial waste, and other substances which may become a nuisance.

Section 8.006 RUBBISH - Means non-putrescible solid waste, excluding ashes, consisting of both combustible and non-combustible waste such as paper, cardboard, tin cans, yard clippings, wood, building on material, rags, bedding, glass, crockery, bulk items, or litter of any kind that will be a detriment to the public health and safety.

Section 8.007 SOLID WASTE – Means either refuse, garbage, rubbish, ashes, either singularly or in any combination thereof.

Section 8.008 VERMIN – Means noxious small animals or insects as lice, fleas, worms, rats, mice, cockroaches, and so forth.

Section 8.10 – AUTHORITY AND ADMINISTRATION - This Regulation is adopted and provided separately and as a part of the Regulations pursuant to authority conferred upon local health departments by Section 2441 (1) of the Code. Requirements with respect to nuisances occurring within Genesee County shall be those requirements set forth in Section 2455 (1) through (5) in the Code. The purpose of this Regulation is to extend the authority of the Code so much as they apply to the existence of environmental health, hazards, cause of sickness, and unsanitary conditions of every description.

Section 8.20 – ENFORCEMENT

Section 8.201 INSPECTION – All premises affected by this Regulation shall be subject to inspection by the Health Officer, who is empowered to make reasonable inspections of such premises only after prior consent of the owner or occupier of the premises has been obtained, except where an imminent danger or health hazard exists or is believed to exist which requires that an inspection be conducted immediately.

Section 8.202 WARRANT – In cases other than those cited in Section 8.201 above the Health Officer shall first obtain a warrant to effect a valid administrative inspection of the premises affected by this Regulation. The warrant shall be supported by oath and affidavit of the Health Officer which demonstrates “probable cause” for the issuance of the warrant. The scope of such a warrant may be directed to a general opposed to specific building, dwelling, or the like. The finding of a “probable cause” to support the issuance of a warrant to inspect either a general area, a specific area, or a specific area within a general area, may be based on consideration, such as, but not limited to, the passage of time since the area (including its appearance, apparent condition, or other apparent physical characteristics), or the observable or perceivable condition in the area, which, in the case of a specific area within a general area, need not necessarily depend upon specific knowledge of the condition of the specific area sought to be inspected. Pursuant to any valid entry and inspection effected under this section, the Health Officer may take possession of any evidence obtained in the course of the inspection, which demonstrates a violation of, or noncompliance with, any of this Regulation.

Section 8.203 – EMERGENCY ABATEMENT – The Health officer may take such action as may be immediately necessary to commence abatement of any nuisance if the public safety and health requires such action. The Health officer may thereafter take such other action under Section 8.202 above as is necessary

to complete the abatement of the nuisance. With permission granted by the Board of Commissioners or by order of the Court, the cost of such abatement may be charged to the premises and the owners and occupiers thereof.

Section 8.30 – STATE LAWS, RULES, REGULATIONS - The statutes of the State of Michigan relating to the storage, transportation and disposal of solid waste, the same being Act 641, P.A. 1978, as amended (MCL 299.4091 et seq.), public health, the same being Act 368, P.A. 1978, as amended (MCL 333.1101 et seq.), the condemnation of unsafe structures, the same being Act 230, P.A. 1972, as amended (MCL 125.1501 et seq.), and the control and elimination of burning and air pollution, the same being Act 348, P.A. 1965, as amended (MCL 336.11 et seq.) and all rules and regulations relating thereto along with all amendments and additions thereto, and as hereafter amended or added to, are hereby expressly incorporated into and made a part of this Regulation. Any person violating any such statute, rule or regulation shall be guilty of a violation of this Regulation. In the event of a conflict the more restrictive of any or all statutes or regulations shall prevail.

Section 8.40 – NUISANCES

Section 8.401 NUISANCES DEFINED AND PROHIBITED – The word “nuisance” as used in this Regulation is defined in Section 1.012 of Chapter I of the Regulation. All such nuisances are hereby prohibited and declared illegal. This Regulation shall not include those nuisances made actionable by Section 3801 of Act 236, P.A. 1961, as amended (MCL 600.101 et seq.) or those nuisances placed in public highways or rights-of-way by legislative or municipal authority.

Section 8.402 UNINHABITABLE PREMISES; VACATION; HEALTH ORDER – Whenever it shall be certified by the Health Officer that a premises is infected with contagious disease or that it is unfit for human habitation, or dangerous to the public health, safety, or welfare by reason of want of repair, or defects in the drainage, plumbing, lighting, ventilation, or the construction of the same, or by reason of the existence of said dwelling, or for any cause, the Health Officer may issue an order requiring all persons therein to vacate such premises within not less than twenty-four (24) hours nor more than ten (10) calendar days for the reasons to be mentioned in said order. In case such order is not complied with within the time specified, the Health Officer may cause said premises to be vacated or may extend the time within which to comply with the same. Once vacated, the Health Officer may require such measures as may be necessary to prevent re-entry into the premises. In the alternative, the Health Officer may proceed with discretion as provided under the Emergency Abatement Provisions of Section 8.203 of this Regulation. The Health Officer, when satisfied that the danger from said premises has ceased to exist, or that it is fit for human habitation, may revoke said order.

Section 8.403 ANIMALS AND VERMIN – It shall be unlawful for any person to create or maintain a vermin or rat-infested condition or premises owned or occupied by that person. When the Health Officer has reasonable cause to believe that there is rodent and/or vermin infestation in a definable area, and upon proper notice, it shall be the duty of the homeowner or occupant of any premises in that area to protect same against ingress of rats and vermin by preventive measures acceptable to or ordered by the Health Officer. The homeowner or occupant shall also be responsible for abatement of a vermin or rat-infested condition or premises owned or occupied by that person, using methods acceptable to the Health Officer.

It shall be unlawful for any person to allow a dead animal to remain for over twenty-four (24) hours after death on premises owned or occupied by him. Such animals shall be buried to a depth of four (4) feet or as otherwise specified by the Health Officer.

Section 8.404 ABANDONED REFRIGERATOR - It shall be unlawful for any person to leave any abandoned, unattended or discarded refrigerator, freezer or other similar self-locking appliance or container on land owned or occupied by that person, without first removing the doors from the said freezer, refrigerator or container, or otherwise eliminating the health hazard condition to the satisfaction of the Health Officer.

Section 8.405 MEDICAL AND INFECTIOUS WASTES – The Health Officer shall enforce the applicable provision of the Genesee County Solid Waste Master Plan.

Section 8.406 IMPORTATION OF WASTES – The Health Officer shall enforce the applicable provisions of the Genesee County Solid Waste Master Plan.

Section 8.407 SOLID WASTE CONTROL – No persons shall permit to accumulate upon their premises any refuse except in containers of rodent-proof, durable, fly-proof and watertight construction, except that bulky rubbish such as tree limbs, weeds, large cardboard boxes, and so forth, may be bundled and so stored as not to provide a harborage or breeding place for rodents. Garbage and rubbish shall be disposed of in a manner which creates neither a nuisance nor a hazard to health in accordance with the provisions of Act 641, P.A. 1978, as amended (MCL 299.401 et seq.).

The occupant and/or owner of property, and the owner of unoccupied property shall at all times maintain the premises occupied or owned in a clean and orderly condition. The deposit of or accumulation of garbage, rubbish, rags, tin cans, glass, paper, empty barrels, boxes, or any litter which because of its character, condition or improper storage may invite the breeding or collection of flies, mosquitoes or rodents, or which may in any manner, endanger the public health, safety or welfare is prohibited.

It shall be unlawful for any person to dump any refuse upon or into any street, alley, waterway or property, public or private. This shall not prohibit the placing of front yard and curb/lawn tree leaves into the street where an organized pick-up by the municipality having jurisdiction exists.

Section 8.50 – BURNING / AIR POLLUTION CONTROL

Section 8.501 OPEN BURNING DEFINED AND PROHIBITED – Open burning that is done under such conditions that the products of combustion are emitted directly into ambient air space as pollutants is hereby expressly prohibited, providing that such condition when under valid and strict permit issued by a municipal jurisdiction and not injurious to the public health which does not cause a nuisance condition as defined in Section 1.012 of the Regulations, may be permitted. The Health Officer may consult with recognized community agencies in making determinations relative to this Section. Open burning shall include in making determinations relative to this Section. Open burning shall include, but not be limited to, burning on the ground or other flat surfaces, burning done in simple outdoor structures, receptacles or other devices which are designed primarily to contain the materials being burned or to minimize the risk of fire and which do not provide effective control of the air pollutants generated.

SECTION 8.60 – DISPOSAL OF HAZARDOUS MATERIALS OR OBJECTS - Hazardous materials, or objects constituting a hazard as defined in Section 8.003 of this Regulation or as defined in Administrative Rule 299.6201 adopted pursuant to Act 64, P.A. 1979, as amended (MCL 299.501 et seq.) shall be disposed of in an approved manner as determined by the Health Officer, or at a disposal site licensed by the State of Michigan which is specifically approved to handle that type or category of waste material.

CHAPTER IX—BODY ART REGULATION

Section 9.00 – DEFINITIONS

Section 9.001 ALCOHOLIC LIQUOR means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

Section 9.002 APPLICANT means the person who submits an application for a body art facility license under this part and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.

Section 9.003 BODY ART FACILITY means the location at which an individual does 1 or more of the following:

- (i) Performs tattooing.

- (ii) Performs branding.
- (iii) Performs body piercing.

Section 9.004 BODY PIERCING means the perforation of human tissue other than an ear for a nonmedical purpose.

Section 9.005 BRANDING means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Section 9.006 CONTROLLED SUBSTANCE means that term as defined in section 7104.1

Section 9.007 CRITICAL VIOLATION means a violation of this part that is determined by the department or a local health department to be more likely than other violations of this part to contribute to illness in humans.

Section 9.008 LICENSEE means the person who is the holder of a license under this part or the person who is legally responsible for the operation of a body art facility and includes the owner or operator, an agent of the owner or operator, or any other person operating under the apparent authority of the owner or operator of a body art facility that is required to be licensed under this part.

Section 9.009 LOCAL GOVERNING ENTITY means that term as defined in section 2406.2

Section 9.00010 MINOR means an individual under 18 years of age who is not emancipated under section 4 of 1968 PA 293, MCL 722.4.

Section 9.00011 SMOKING means that term as defined in section 12601.3

Section 9.00012 TATTOO means 1 or more of the following:

- (i) An indelible mark made upon the body of another individual by the insertion of a pigment under the skin.
- (ii) An indelible design made upon the body of another individual by production of scars other than by branding.

Section 9.00013 TEMPORARY BODY ART FACILITY means a body art facility that operates at a fixed or temporary location in this state for a time period that does not exceed 14 consecutive days and includes out-of-state facilities operating within this state.

Section 9.1 – AUTHORITY AND ADMINISTRATION

These minimum standards for body art establishments are hereby established pursuant to authority conferred upon Genesee County Health Department. Section 1.0 and Section 4.0 of the Genesee County Regulation to require license

to operate a body art establishment and to establish minimum standards for body art establishments. See MCL 333.1301 et seq.

Section 9.2 PURPOSE

Injuries, infections and disease transmissions may occur as a result of improper body art or aftercare procedures. Body art, by its nature, places individuals at risk for communicable disease transmission. Tattooing involves multiple intradermal injections of the skin by a small machine having one or more needles connected to tubes containing the dyes. Since tattooing involves injections under the skin, without proper sterilization and infection control practices, there is a risk for viral and bacterial infection. Additionally, blood is present in each procedure, increasing risk of infection by bloodborne pathogens to the technician. Therefore, these standards are established to safeguard the public health.

Section 9.3 – PREMISES

Section 9.301 SEPARATION OF ESTABLISHMENT

All establishments shall be completely separated by solid partitions or by walls extending from floor to ceiling, from any room used for human habitation, a food establishment or room where food is prepared, a hair salon, retail sales, or other such activity which may cause potential contamination of work surfaces.

Section 9.302 VERMIN

Any part of the establishment, its appurtenances or appertaining premises shall be kept free of vermin, insects or rodents.

Section 9.303 ANIMALS

No animals shall be allowed except service animals used by persons with disabilities. Fish aquariums shall be allowed in waiting rooms and non-procedural areas.

Section 9.304 WALLS, FLOORS, CEILINGS AND SURFACES

All walls, floors, ceilings and all procedure surfaces shall be smooth, free of open holes or cracks, light-colored, washable and in good repair and maintained in a clean, sanitary condition.

All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.

Section 9.305 FLOOR SPACE

There shall be a minimum of forty five (45) square feet of floor space for each technician in the establishment and each body art stations shall be separated by dividers, curtains, or partitions, at a minimum.

Section 9.306 VENTILATION AND LIGHTING

The establishment shall be well ventilated and provide with an artificial light source of at least twenty (20) foot candles three (3) feet off the floor, except that at least 100-foot candles shall be provided at the level where the body art procedure is being performed, and where instruments and sharps are assembled.

Section 9.307 HANDSINK

A separate, readily accessible, handsink with hot and cold running water, under pressure, preferably equipped with wrist or foot operated controls and supplied with liquid antimicrobial soap, disposable paper towels and a covered waste receptacle shall be readily accessible, and service no more than three technicians.

Section 9.308 LAVATORY AND TOILET

There shall be one lavatory and one toilet with a covered waste receptacle cleanable and kept clean.

Section 9.309 SMOKING/EATING

A person shall not be allowed to smoke, eat or drink within an area where body art is performed.

Section 9.310 WASTE RECEPTACLE

An establishment shall have at least one covered waste receptacle in each practitioner work area for non-bio-hazard waste. These waste receptacles shall be emptied daily and solid wastes removed from the premises at least weekly. Refuse containers shall be lidded, cleanable and kept clean.

Section 9.311 REGULATED WASTE

Regulated waste shall be placed in an approved "red" bag which is marked with the International bio-hazard waste. These waste receptacles shall be emptied daily and solid wastes removed from the premises at least weekly. Refuse containers shall be lidded, cleanable and kept clean.

Section 9.312 BLOODBORNE PATHOGENS

A person or establishment shall comply with all the rules on bloodborne pathogens which are prescribed by the Occupational Safety and Health Administration and by the Michigan Occupational Safety and Health Act.

SECTION 9.4 – PREPARATION AND CARE OF BODY ART AREA

Section 9.401 SKIN PREPARATION

Before performing a body art procedure, the immediate and surrounding area of the skin where the body art procedure is to be placed shall be washed with antimicrobial soap and water, iodine or an approved surgical skin preparation, depending on the type of body art to be performed.

In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately after use in appropriate covered containers, unless the disposal products meet the definition of regulated waste.

Section 9.402 SHAVING

If shaving is necessary, single use disposable razors or safety razors with single service blades shall be used and discarded after each use and the reusable holder shall be autoclaved after use.

Following shaving, the skin and surrounding area will be washed with soap and water and the washing pad shall be discarded after a single use.

Section 9.5 – SINGLE USE EQUIPMENT/ITEMS

Section 9.501 SINGLE USE SHARPS (NEEDLES AND RAZORS)

Single use items shall not be used on more than one client for any reason.

After use, all single use needles, razors and other sharps shall be immediately disposed of in approved containers.

Section 9.502 SINGLE USE PRODUCTS

Petroleum jellies, soaps or other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze, the gauze shall be discarded, or in a manner to prevent contamination of the original container and its contents.

All products applied to the skin, including body art stencils, shall be single use and disposable.

Section 9.503 ACETATE STENCILS

Acetate stencils shall be allowed for re-use if sanitization procedures are performed between uses.

SECTION 9.6 – SANITIZATION AND STERILIZATION

Section 9.601 INSTRUMENT CLEANING

All non-single-use, non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water or follow the manufacturer's instructions to remove blood and tissue residue.

All non-single use, non-disposable instruments shall be placed in an ultrasonic unit which will be operated in accordance with manufacturer's instructions.

Section 9.602 INSTRUMENT STERILIZATION

All cleaned, non-disposable instruments used for body art shall be packed in peel-packs and subsequently sterilized. It shall be used, cleaned, and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of their sterilization unit must be available for inspection. Sterilizers shall be located away from work stations or areas frequented by the public.

All peel packs shall contain either a sterilizer indicator or internal temperature indicator and must be dated with an expiration date not to exceed 30 days.

Sterile equipment may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.

After sterilization, the instruments and reusable needles used for body art shall be stored in sterile packages in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments and remain stored until just prior to performing a procedure.

When assembling instruments used for performing body art procedures, the operator shall wear disposable medical gloves and use medically recognized techniques to ensure that the instruments and gloves are not contaminated.

Each operator shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests, verified through an independent laboratory. These test records shall be retained for a period of three (3) years.

Section 9.603 INKS AND PIGMENTS

All inks, dyes, pigment, needles and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.

Immediately before applying a tattoo, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single use paper cups or plastic cups. The mixing of approved inks, dyes or pigments or their dilution with potable water is acceptable.

Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

Section 9.604 CLOTH ITEMS

Reusable cloth items shall be mechanically washed with detergent and dried after each use. The cloth items shall be stored in a dry, clean environment until used.

SECTION 9.7 – PERSONAL CLEANLINESS AND HYGIENIC PRACTICES

Section 9.701 PERSONAL CLEANLINESS

The technician shall maintain a high degree of personal cleanliness, conform to hygienic practices and wear clean clothes when performing body art.

Before performing body art procedures, the technician must thoroughly wash their hands in hot running water with liquid microbial soap, then rinse hands and dry with disposable paper towels.

In performing body art procedures, the technician shall wear disposable medical gloves. Gloves must be changed if they become contaminated by contact with any non-clean surfaces or objects or contact with a third person. The gloves shall be discarded at a minimum, after the completion of each procedure on an individual client and hands washed prior to donning the next set of gloves. Under no circumstances shall a single pair of gloves be use on more than one person.

If, while performing a body art procedure, the technician's glove is pierced, torn, or otherwise contaminated, the procedure listed above shall be repeated immediately. The contaminated gloves shall be immediately discarded and the hands washed thoroughly before a fresh pair of gloves are applied.

Any item or instrument used for body art which is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.

Date of adoption by Genesee County Health Department-Genesee County Board of Health: April 17, 2001; Date of approval by Genesee County Board of Commissioners: May 8, 2001; Date of publication of public notice in The Flint Journal newspaper: May 10, 2001.

REPRODUCTION

Copies of the Genesee County Environmental Health Regulations (entire bound edition) are available at \$5.00 each; individual Chapters are available free upon request and will be furnished to those for which a permit function is involved as a part of that transaction. The Regulations or its Chapters may be reproduced without permission of the County of Genesee.

APPROVAL

The foregoing provisions were approved by the Genesee County Board of Health and adopted by the Genesee County Board of Commissioners on December 19, 1989. The Regulations shall become effective January 1, 1990.

<u>GENESEE COUNTY BOARD OF HEALTH:</u>	<u>GENESEE COUNTY BOARD OF COMMISSIONERS:</u>
<u>Comm. Randy C. Ensley, Chairperson</u>	<u>Comm. Daniel T. Kildee, Chairperson</u>
<u>Comm. Deborah Cherry</u>	<u>Comm. James D. Cole</u>
<u>Comm. Vera B. Rison</u>	<u>Comm. Rosalyn Bogardus</u>
<u>Wendell B. Harris, D.O.</u>	<u>Comm. Sylvester Broome, Jr.</u>
<u>Thomas Howes</u>	<u>Comm. Arthur A. Busch</u>
	<u>Comm. Deborah Cherry</u>
	<u>Comm. Candace Curtis</u>
	<u>Comm. Randy Ensley</u>
	<u>Comm. Vera B. Rison</u>

I, John H. Trecha, Clerk of said County of Genesee and Clerk of the Circuit Court for said County do hereby certify that I have compared the foregoing photographic copy of Genesee County Environmental Health Regulations with the original record now remaining in my office and it is a true and exact photographic reproduction and whole of such original record. In testimony whereof, I have hereunto set my hand, and affixed the seal of said Court and County, this 20th day of December A.D. 1989.

Genesee County Daniel T. Kildee Chairperson
Board of Commissioner Daniel T. Kildee, Clerk Approved John H. Trecha
BY Deputy Lawrence Deputy County Clerk John H. Trecha

Resolution #89-692