

**ENVIRONMENTAL HEALTH REGULATIONS**  
**FOR**  
**BENZIE COUNTY HEALTH DEPARTMENT**  
**AUTHORITY, JURISDICTION, PURPOSE**  
**AND**  
**GENERAL DEFINITION**

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# CHAPTER I

## ARTICLE I

### Section 1.11 AUTHORITY

By virtue of the power invested in the Committees of the Grand Traverse, Leelanau, and Benzie County Board of Commissioners under 1978 PA 368: MCLA 333.1101 et seq.; MSA 14.15 et seq., as amended, there are hereby provided and adopted the following regulations, rules and ordinance for the protection of the public health, safety and welfare, to prevent the spread of disease, to prevent sources of contamination of property, the public health and the environment, and to otherwise properly safeguard the public health and to implement or carry out the duties or functions vested by law for such purposes, and to regulate sewage and sewage disposal, water supplies, and the sanitation of habitable buildings, dwellings and land, and also to provide for permits for contractors installing sewage disposal or installing or servicing wells, and to provide for notice and regulation of septic systems not in conformance with standards required by law, regulation or ordinance in the County of Benzie, State of Michigan, and to provide for remedies, fines and penalties for violation of such regulations, rules or ordinances. Further, these regulations are adopted by virtue of the duties imposed by the Michigan Environmental Protection Act, 1970 P.A. 127; MCLA 691.1201-7;MSA 14.528(201)-(207), and to prevent or minimize degradation of the environment and the public trust therein as it relates to public health.

### Section 1.12 JURISDICTION

The Health Department shall have jurisdiction throughout Benzie County, including cities, villages and townships in the administration and the enforcement of the minimum standards, including all minimum standards or amendments hereafter adopted otherwise specifically stated. Nothing herein contained shall be construed to restrict or abrogate the authority of any municipality, or incorporated city, village or township in Benzie County to adopt more restrictive standards, or to enforce any existing ordinances or standards relating to the regulations, control, or issuance of licenses or the renewal or revocation thereof or the right to charge and collect a fee therefore, provided, that whenever inspection relating to health or sanitation is required, no such municipality shall issue a license without first having obtained written approval from the health officer indicating compliance with the requirements of the Minimum Standards and provided, further, that all existing ordinances or standards shall not be in conflict with these regulations.

Section 1.13           PURPOSE

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

Section 1.14

These Minimum Standards are supplemental to the rules and regulations duly enacted by the Michigan Department of Public Health, and are supplemental to the laws of the State of Michigan relating to the public health or contamination of environment, and shall supersede all local minimum standards heretofore enacted and inconsistent herewith.

Section 1.15

These Minimum Standards and all regulations added or amended hereto shall become effective in Benzie County on January 1, 1964, after the approval by the majority vote of the individual Boards of Commissioners of the Benzie County, and shall be effective on the date of any amendments in accordance with law, including the Amendment of January 1, 1972 and the Amendment of December 31, 1989. Any county within the Department District may adopt these regulations, and upon such adoption or approval by the County Board of Commissioners these regulations shall have full force and effect in such county even though not adopted by any other county within the District, pursuant to 1978 Public Act 368; MCLA 333.1101 et seq.; MSA 14.15 et seq. These regulations shall take effect on December 31, 1989.

Section 1.16           SEVERABILITY

The provisions of this code are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by a court of competent jurisdiction, the remaining portions of said

code shall remain in full force and effect.

## **ARTICLE II**

### **Section 1.20           DEFINITIONS**

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

### **Section 1.21           WORDS AND TERMS**

The following words and terms used in the Sanitary Code Regulating Sewage Disposal, Water Supplies, and Sanitation of Habitable Buildings in Benzie County, Michigan, unless otherwise expressly stated shall have the following meaning:

### **Section 1.22           BOARD OF HEALTH**

The term "Board of Health" shall mean the health committee of the Benzie County Boards of Commissioners.

### **Section 1.23           HEALTH DEPARTMENT**

The term "Health Department" shall mean the Benzie County Health Department.

### **Section 1.24           HEALTH OFFICER**

The term "Health Officer" shall mean the director or the acting director or his duly authorized representative of the Benzie County Health Department or their successors.

### **Section 1.25           MUNICIPALITY**

The term "Municipality" shall mean any incorporated city, village, or township within the county of Benzie.

Section 1.26            HABITABLE BUILDING

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

Section 1.27            PREMISE

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

Section 1.28            PERSON

The term "person" shall mean any individual, firm, partnership, party, corporation, company, society, association, or other legal entity.

Section 1.29            DWELLING

The term "dwelling" shall mean any building, structure, tent, shelter, trailer, or vehicle or portion thereof, which is occupied, will be occupied, or was heretofore occupied in whole or part as home, residence, living or sleeping, or other gathering place designed or used by one or more human beings either permanently or transiently, or occupied in whole or in part as a business wherein one or more human beings is engaged in commercial or industrial activities on either a permanent or temporary basis.

**CHAPTER II – SEWAGE DISPOSAL**  
**ARTICLE 1 – DEFINITIONS**

Section 2.10            SEWAGE

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

Section 2.11 SEWAGE DISPOSAL FACILITIES

"Sewage Disposal Facilities" shall mean a sanitary privy, flush toilet, septic tank, drain, sub-surface disposal absorption system, or other similar toilet device or method used in the collection, storage, enclosure, decomposing and/or disposal of sewage, human excreta or other waste including but not limited to hazardous, toxic, or chemical wastes or other pollutants or contaminants, singularly or in combination with sewage or human excreta. "Sewage Disposal Facilities" shall include all similar contrivances used in the collection, storage, enclosing, decomposing and disposal of sewage or such other waste whether specifically enumerated herein or not; however, the term shall not include a solid waste disposal facility or hazardous waste disposal facility that has been approved pursuant to 1978 P.A. 641; MCLA 299.501-.551; MSA 13.30(1)-(51); or 1979 P.A. 64; MCLA 299.401-.437; MSA 12.29(1)-(37).

Section 2.12 SEWER

A "sewer" is a conduit for carrying sewage.

Section 2.13 SEWAGE SYSTEM

A "sewage system" is composed of the sewage collection system and the sewage disposal facilities.

Section 2.14 SEPTIC TANK

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

Section 2.15 DOSING TANK

A "dosing tank" is a water tight tank or receptacle used for the purpose of retaining the overflow or effluent from a septic tank, pending the automatic discharge of such effluent to a selected point.

Section 2.16           AUTOMATIC SIPHON

An "automatic siphon" is a mechanical device which will automatically cause a liquid entering a receptacle to be retained until a predetermined water level has been attained after which such liquid is automatically released from the receptacle until a second predetermined level has been reached, at which time the flow from such receptacle ceases until the liquid level has again been attained.

Section 2.17           SUB-SURFACE DISPOSAL FIELD

A "sub-surface disposal field" shall mean a system for distributing septic tank over-flow or effluent beyond the ground surface by means of a line or a series of branch lines of drain tile with open joints so as to allow the overflow or effluent to be absorbed by the surrounding soil.

Section 2.18           FLUSH TOILETS

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

Section 2.19           OTHER TOILET AND SEPTIC DEVICES

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

**ARTICLE II – SEWAGE DISPOSAL ON ALL PREMISES**

Section 2.20

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

Section 2.21

All privies and other toilet devices shall be constructed and maintained in accordance with state law and regulations.

### **ARTICLE III – PUBLICLY OPERATED SEWERAGE SYSTEMS**

#### **Section 2.30 SEWAGE FLOWING IN A PUBLIC DITCH**

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

#### **Section 2.31 PRIVIES WHERE MUNICIPAL SEWERAGE SYSTEM IS PROVIDED**

No privy shall hereafter be constructed on, or moved to any premises where the service of a publicly operated sewerage system is available. All privies on premises connected to a publicly operated sewerage system shall be removed from over the vault when said connection is made. The privy vault shall then be covered with at least twelve inches of compacted earth, and the building rendered unusable as a toilet facility. All other sewage disposal facilities replaced by connection to a publicly operated sewerage system shall be abandoned in such a manner as to prevent any nuisance or menace to the public health.

#### **Section 2.32 OTHER SEWAGE DISPOSAL FACILITIES WHERE A MUNICIPAL SEWERAGE SYSTEM IS PROVIDED**

All flush toilets, lavatories, sinks, bathtubs, showers, and laundry drains hereafter constructed on a premise where the service of a publicly operated sewerage system is available shall be connected with said publicly operated system. When any existing sewage disposal facility serving any premises where a publicly operated sewerage system is available and required by law, or 1978 P.A. 368; MCLA 333.12752-8; MSA 14.15(12752-8) is found to be in violation of any



provision or standard of these Regulations, or of any other applicable health or contamination laws, ordinances or regulations, the owner or occupier of the premises shall connect to said publicly operated sewage system within sixty (60) days after receipt of written notice of such violation from the health officer. In the event that such correction is not made within the sixty (60) day period, then the health officer or Health Department, or their duly authorized representative, is hereby authorized to seek court enforcement for injunctive relief, fines, civil penalties or damages as authorized by this Sanitary Code or as authorized by other health or contamination laws, ordinances or regulations.

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

#### **ARTICLE IV – DISPOSAL OF WATER CARRIED SEWAGE ON PREMISES WHERE A PUBLICLY OPERATED SEWERAGE SYSTEM IS NOT AVAILABLE**

##### **Section 2.40           GENERAL REQUIREMENTS**

All flush toilets, lavatories, bathtubs, showers, laundry drains, sinks, and any other similar fixtures or devices to be used to conduct or receive water carried sewage shall be connected to a septic tank or some other device in compliance with these minimum standards and the Michigan Department of Public Health regulations and finally disposed of in a manner in compliance with these minimum standards and the Michigan Department of Public Health regulations and any other applicable law ordinance, or regulations.

Provided that any such facilities existing at the time these standards are adopted, which in the opinion of the health officer may become a nuisance or menace to the public health shall be connected to a septic tank or other approved device and finally disposed of in a manner in compliance with these standards and the Michigan Department of Public Health requirements. Footing drains, roof water, and any other similar waste not defined as sewage shall not be connected into the sewage disposal system.

##### **Section 2.41           SEWAGE DISCHARGE**

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

Section 2.411      TYPE AND LOCATION

No unexposed sewers or pipe used to conduct untreated sewage from a dwelling or habitable building shall be located closer than 10 feet from the nearest unprotected water suction line, well casing, spring structure or other potable water source. When such unexposed pipe or sewer is closer than 50 feet from any unprotected water suction line, well casing, spring structure, or other potable water source, such sewer line shall be constructed of extra heavy cast iron pipe with leaded and caulked joints, tested for water tightness or cast iron pipe with watertight joints, or other pipe of equal quality approved by the health officer. Where any such pipe or sewer is located inside or beneath a habitable building or dwelling or within five feet outside the inner face of such building foundation wall such sewer pipe shall be constructed of such material as described above.

Section 2.412      SIZE

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

Section 2.413      GRADE

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

Section 2.430      SEPTIC TANKS

Section 2.431      LOCATION

Septic tanks shall be located at least:

- A. 50 feet from any potable water supply, well, spring, or unprotected suction line (75 feet from Type II and III wells).
- B. A minimum isolation distance of 50 feet shall be maintained from any lake, pond, creek, or other surface water flooding or its highest flood plain elevation.
- C. No septic tank shall be located closer than 5 feet to any footing or foundation wall.
- D. No septic tank shall be located closer than 10 feet to any lot line.
- E. No septic tank shall be placed where it is inaccessible for cleaning or

inspection, nor shall any structure be placed over any septic tank rendering it inaccessible for cleaning or inspection.

Section 2.432 MATERIALS AND CONSTRUCTION

Septic tanks shall be of watertight construction and of material not subject to decay or corrosion. Concrete block or bricks at least eight inches in thickness may be used in septic tank construction. Cinder blocks shall not be approved for septic construction. Septic tanks shall be provided with one or more suitable openings with watertight cover to permit cleaning and inspection. The outlet from such tank shall be equipped with a sanitary tee to prevent the escape of floating or settled solids. The inlet shall be designed to permit gasses collected above the liquid level to pass through the inlet and out the vent pipe serving the sewers leading into the septic tank. The center of the inlet shall be held a minimum of two inches above the center of the outlet.

Section 2.433 CAPACITY

Septic tanks hereafter installed shall have a liquid capacity of at least the average volume of sewage flowing into it during any 24-hour period. If a compartment tank is installed, the first compartment shall have not less than one-half nor more than two-thirds the total capacity. The following capacity for septic tanks shall be required except in the opinion of the health officer where increased capacities may be required:

- A. Two-bedroom dwelling - 1000 gallons  
(with garbage grinder - 1000 gallons)
- B. Three-bedroom dwelling - 1200 gallons  
(with garbage grinder - 1600 gallons)
- C. Four-bedroom dwelling - 1600 gallons  
(with garbage grinder - 2000 gallons)
- D. Five bedrooms or greater will require special computation by the health officer to determine the size of tank to be installed.
- E. A commercial establishment, industry, or semi-public establishment will also require special computation by the health officer to determine the size of the tank to be installed.

Section 2.440 DOSING TANK

The health officer may require that dosing tanks be provided with automatic siphons or pumps of a type approved by the Michigan Department of Public Health be used on installations where the daily flow rate is 1500 gallons per day

or more.

Section 2.450 SUB-SURFACE DISPOSAL SYSTEM

- A. Location-same as for septic tanks (Sec. 2.431)
- B. No system shall be located closer than 10 feet to any footing or foundation wall.
- C. The bottom of the disposal system shall not be over 42 inches below the finished grade and not less than 4 feet above the maximum high water table.

Section 2.451 SIZE

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

Section 2.452 QUALITY

Sub-surface disposal system lines shall be constructed from perforated plastic tile or other equivalent material as approved by the Michigan Department of Public Health and/or the health officer.

Section 2.453 DEPTH, SLOPE, AND LENGTH OF LINES

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

Section 2.454 HEADERS

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

Section 2.455 FILTER MATERIAL

Sub-surface disposal system lines for distributing septic tank effluent for direct soil absorption shall be laid over at least six inches of clean and/or washed stone from one-half to one and one-half inches in size. A total minimum depth of 12 inches filter material is required.

Section 2.456 TRENCH CONSTRUCTION

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

Section 2.457 SUB-SURFACE DISPOSAL SYSTEM

The minimum sub-surface disposal system area is depended upon average daily volume of septic tank effluent and the type of natural soils present in the proposed disposal area. The following minimum sizing shall be used except where in the opinion of the health officer a variation in sizing is necessary:

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

Section 2.458 PERMIT DENIAL

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

- A. Where an impervious layer of hard pan is encountered at less than four feet from the natural ground surface.
- B. Where the known high ground water table is encountered within four feet of the natural ground surface.
- C. In heavy soils where the drop in water level is over 45 min. per inch by standard percolation test.
- D. Where silts, mucks, or unstable soils are encountered.
- E. Where lot size does not provide adequate area to maintain requirements as set forth in Sec. 2.40 through 2.457.
- F. Where it has been determined that one or more of the following exists:
  - 1. The proposed sewage disposal system is likely to adversely affect the public health, or the environment where the adverse affect on the environment endangers the public health.
  - 2. The proposed sewage disposal system is likely to pollute, impair, or destroy air, water, or other natural resources or the public trust therein contrary to 1970 P.A. 127, MCLA 691.1201 et seq.; MSA 14.528(201) et seq.
  - 3. The proposed sewage disposal system will violate any other health or contamination law, regulation or ordinance.
  - 4. A publicly operated sewerage system is available as defined in 1978 P.A. 368; MCLA 333.12752-8; MSA 14.15(12752-8).
  - 5. The proposed site of the sewage disposal system is subject to recurring flooding and/or is located within the fifty (50) year flood plain, or is located within a wetland as defined by 1979 PA 203; MCLA 281.701-.722; MSA 18.595(51)-(72), or falls within (high risk erosion zone) as defined in 1970 PA 245; MCLA 281.631-.635; MSA 13.1831-.1845 except that in any of the circumstances in this sub-paragraph (e) a system may be approved for a holding tank or where the discharge is stored and piped to a disposal system in a suitable area that meets the requirements of this Code.

Section 2.459

ALTERNATIVE TREATMENT SYSTEMS

Technological advances in on-site waste treatment and disposal have made it possible to have treatment systems that are alternatives to the septic systems described in Sections 2.450 through 2.458 and that are consistent with protection of public health and environmental resources. These alternative systems are particularly advantageous when any of the following conditions prevail:

- 1. Drainfield construction criteria described in Sections 2.450 through 2.458 cannot be achieved, or
  - 2. Holding tank substitutes are sought, or
  - 3. Owner(s) believe the public health and/or environment will benefit.
- The Health Department will supply, upon request, a list of suppliers of some

alternative systems that can potentially achieve the performance-based standards required for alternative systems.

It is the responsibility of the owner to establish that a particular alternative treatment system meets the requirements for approval. The health officer shall permit the use of alternative on-site waste treatment and disposal systems when it is established by competent, material and substantial evidence that the following performance standards can be achieved:

1. The treatment facility is capable of producing an effluent with:
  - a) BOD less than or equal to 30 mg/L
  - b) TSS less than or equal to 30 mg/L
  - c) Total inorganic nitrogen less than or equal to 25 mg/L
  - d) For discharges within 500 feet of a water body, total inorganic nitrogen less than or equal to 10 mg/L and total phosphorous less than or equal to 2 mg/L
2. The effluent discharge from the treatment system shall be constructed in such a manner that surface flooding will not occur.
3. A minimum of 24 inches of suitable soil is below the discharge piping for pathogen removal. The health officer may modify this requirement if there is no less than 12 inches of suitable soil below the discharge piping and other means of disinfection result in pathogen removal equal to or better than achieved by 24 inches of suitable soil below the discharge piping.

After an alternative on-site waste system is approved by the health officer, the owner of the system shall comply with all of the following:

1. The owner shall at his or her sole expense comply with a specific maintenance, monitoring and inspection program specified by the health officer to ensure the optimum operation of the alternative treatment system.
2. If the system substantially fails to meet the performance standards of subsection B above, the owner shall, at his or her sole expense and within the time frame (based on the degree of harm or potential harm to the environment or to public health) required by the health officer, corrections shall be made to the system so that the performance standards are substantially met. Failure to correct the system as required shall be deemed a violation of the Environmental Health Regulations and shall subject the owner to the enforcement provisions within Chapters IV and V of these regulations.

A technical advisory panel appointed by the Benzie-Leelanau District Board of Health shall regularly review these performance-based regulations. The advisory panel may recommend changes to these performance-based regulations for future installations based on

experience with past installations and on the availability of practical treatment technology at that time. Any such recommendations, however, shall not be effective without formal amendment of these Environmental Health Regulations.

## **ARTICLE V – PERMIT**

### **Section 2.50**

On or after December 31, 1989, no person or their contractor or agent shall construct any dwelling or any addition thereto, or install, modify or repair any sewage disposal facility as defined in this Code, without a permit and approval from a health officer as required by this Code and its regulations; provided, however, that no such application or construction permit shall be required in those cases where a permit from the State Department of Public Health is a statutory prerequisite and has been obtained. Such construction permit shall be issued only when plans and specifications for the proposed installation of the average system are not less than the requirements set forth in these minimum standards.

Said permit shall be in duplicate and shall contain a sketch showing all pertinent plans and specifications of the proposed sewage disposal installation. Said permit shall be signed by the applicant and the health officer. One copy of the permit shall be given to the applicant to be posted at the construction site. One copy of the application permit shall be retained by the health officer and remain on file in the Health Department.

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

## **ARTICLE VI – FEES**

### **Section 2.60**

A schedule of fees for licenses, permits and other services authorized by these regulations shall be established by the Board of Health.



**ARTICLE VII – REGISTRATION REQUIREMENT**

Section 2.70

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

Section 2.71            **SEPTIC TANK MANUFACTURERS RESPONSIBILITY**

It shall be the responsibility of any septic tank manufacturer delivering septic tanks within the county of Benzie, Michigan upon request of the health officer, to make available the place, name, address, size, type and date septic tanks were delivered within the county of Benzie, Michigan.

**ARTICLE VIII – DISPOSAL OF SEPTIC TANK, PRIVY VAULT AND OTHER SEWAGE DISPOSAL FACILITIES CONTENTS**

Section 2.80

The contents of any septic tank privy vault, cesspool, dry well, or other toilet devices or any part thereof shall be disposed of by one of the following methods:

1. Discharge into a municipal sewerage treatment plant when in accordance with law and when arrangements have been made with the municipality and/or operator.
2. Spreading on the ground surface in a location and manner that is in accordance with the provisions and regulations of 1986 PA 181; MCLA 325.311-.332; MSA 14.434(11)-(32), and any other applicable state or federal law.

**ARTICLE IX – NOTIFICATION AND TRANSFER OF PREMISES WITH SEWAGE DISPOSAL SYSTEMS**

Section 2.90            **PURPOSE**

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

Section 2.91            **EVALUATION**

An owner of premises or a dwelling shall not sell, convey, assign nor transfer ownership of, or exclusive rights in, any dwelling and/or habitable building or premises unless and until the owner or his designated agent has requested a health officer to evaluate the existing on-site water well system and the existing on-site sewage disposal system and unless and until such evaluation by the health officer has been conducted and the results thereof have been reduced to writing and furnished to any prospective purchaser or transferee and the seller or transferor as part of the said transaction on a form established by the Health Department.

#### Section 2.911

The evaluation shall consist of a determination that the sewage disposal system and water well system are in substantial conformance with the standards of this Code, and its regulations. The term "substantial conformance" shall mean that there shall not be more than a minimal likelihood of degradation of ground water or surface water by improper or malfunctioning sewage disposal systems or water supply systems. In making this determination, the following criteria shall be considered:

- A. Vertical isolation distance between the high ground-water table and the point of sewage discharge;
- B. Isolation distance from surface waters or wetlands, as defined by federal or state law and regulations;
- C. Isolation distance between water well and sewage system;
- D. The on-site conditions of the property, including but not limited to soil types, groundwater elevation, flow and direction;
- E. Whether the sewage system meets the construction and design criteria (size and capacity) in the Health Department's Code and Regulations, as now or hereafter amended;
- F. Lot size and useable area for on-site sewage disposal;
- G. Operational condition of existing sewage system.

#### Section 2.912

This section 2.91 shall apply to all premises and dwellings as defined in this Code regardless of whether or not they are defined as Class I or Class II as set forth in Sec. 2.920.

#### Section 2.920 CLASSIFICATION

The premises subject to Sec. 2.91 and this Article IX and the provisions herein are classified as "Class I" and "Class II".

Section 2.921

"Class I" means premises on or in which there is located a sewage disposal system constructed on or before December 31, 1971 or a sewage disposal system constructed at any time without permit or approval by the Health Department under this or previous Codes and Regulations.

Section 2.922

"Class II" means premises on or in which there is located a sewage disposal system constructed, approved and placed into operation subsequent to December 31, 1971.

Section 2.930        NOTIFICATION

All owners of Class I dwellings or habitable buildings shall notify the Health Department in writing on or before January 1, 1992. Written notification shall include the following information:

Section 2.931

Name, address and telephone number of the owner and/or occupant of the property; and the address of the property and the property tax number;

Section 2.932

A site drawing which shall include a description of the following: all the boundaries of the property; the location of all buildings, the location of all water well systems and the sewage disposal systems;

Section 2.933

A description of the sewage disposal system, including its size, type of construction and age. If the age of the system is not known, it should be deemed to have been constructed on or before December 31, 1971;

#### Section 2.934

The date that the building was constructed and the last date that the building was altered, modified, changed or expanded.

#### Section 2.940          FILING NOTIFICATION

Upon the filing of such written notice required by Sec. 2.930 with the Health Department, the health officer shall inspect the premises and evaluate the sewage disposal system and, when necessary, the on-site water system, to determine whether there is substantial conformance with Code and defined in Sec. 2.911. The failure to file such written notice shall be deemed a violation of the Code and its regulations.

#### Section 2.941          RIGHT OF USE

Upon the filing of written notice and information required by Sec. 2.930, the owner of any Class I premises, dwelling or habitable building as defined in Sec. 2.920 shall have an automatic right to use the on-site sewage system or on-site water system for a period not to exceed ten years from such written notice; provided however, that all such written notice shall be filed on or before January 1, 1992.

If, for any reason, an owner of Class I premises fail to file such written notice on or before January 1, 1992, such owner or occupant, purchaser, or transferee of the property shall lose the ten (10) year right of use provided for in Sec. 2.941. If, upon inspection by the health officer, it is determined that the system does not substantially conform, written notice of such fact shall be made by the health officer to the owner, occupant, purchaser or transferee, and the system shall be brought into compliance with this Code and regulations as set forth in such written notice within one hundred twenty (120) days of the date of such written notice. A person aggrieved by such determination shall have the right to appeal and request a hearing as provided for in Sec. 5.18 of this Code in order to reinstate a ten year right of use. The term "substantially conform" is defined in Sec. 2.911.

- A. The ten (10) year right of use or preexisting sewage disposal system or on-site water system provided in Sec. 2.941 shall be at the risk of any owner, occupant or transferee or purchaser. No representation is made by the Health Department or a health officer with respect to the working condition or operation of the sewage disposal system or on-site water supply as required by this Code or law.
- B. No property right or equivalent property interests are created by virtue of

- the authorized ten (10) year right of use as provided in Sec. 2.941.
- C. Any owner or occupant of premises qualifying for the ten (10) year right if use provided in Sec. 2.941 shall maintain the existing sewage disposal system and shall notify the health officer in the event groundwater contamination is discovered or the system functions improperly.
  - D. Any premise qualifying for a ten (10) year right of use as provided in Sec. 2.941 shall be inspected by a health officer prior to its sale or transfer as set forth in Sec. 2.91.

#### Section 2.950 INSPECTION NOTIFICATION

If, upon notice of sale or transfer and inspection, it is determined that there is not substantial conformance as defined in Sec. 2.91, or that there is an endangerment of water well systems, groundwater or surface water or public health, then the septic system or water supply shall be subject to enforcement as provided in the Code. The health officer shall provide a copy of such written determination to the owner and/or purchaser or transferee of the property within one hundred twenty (120) days from the date that the inspection of the premises is completed.

#### Section 2.951 CORRECTIVE ACTION

- A. Upon receipt by an owner, purchaser or transferee of written notice, as set forth in Sec. 2.950, the owner, purchaser or transferee shall, within thirty (30) days, submit a proposed corrective action that will remediate, abate or prevent any such substantial nonconformance or endangerment. The Health Department shall review the proposed corrective action. All necessary corrective action shall be completed within one hundred twenty (120) days of Health Department approval. Upon approval by the Health Department of the completed corrective action, the system shall be deemed to be in substantial conformance with this Code and Regulation. A person aggrieved by the written determination provided for in this subsection shall have the right to a hearing and appeal as provided in Sec. 5.19 of this Code.
- B. Before the completion or closing of any real estate transaction for the sale of premises having a system provided for in this Sec. 2.950, the owner, purchaser or transferee shall notify the Health Department that the premises and its sewage system either: (1) are in substantial conformance with this Code and its Regulations as defined in Sec. 2.91; or (2) submit to the Health Department proof of the following: (a) written contract to cause the sewage system to be brought into conformance; (b) deposit of a surety or performance bond or cash guaranteeing performance of such contract in an amount equal to one and one-half times the estimated cost provided

for in such contract; (c) covenant that the performance called for by such contract shall be completed within one hundred and fifty (150) days of sale or transfer of the premises.

Section 2.960            ENFORCEMENT

Section 2.961

Any owner, transferee, purchaser or person aggrieved by Determination required by this Article IX, shall have the right to a hearing and appeal as provided in Sec. 5.19 of this Code and Regulation.

Section 2.962

In the event that the health officer is not notified as required by Sec. 2.951, or in the event an owner, transferee or purchaser does not comply with the requirements of Sec. 2.951, then in such event a health officer or his/her duly authorized representative may record an Affidavit Concerning Status of Sewage Disposal System with the Register of Deeds office in the County where the premises are located setting forth the fact that it may not in substantial conformance with this Code and its regulations as defined in sec. 2.911.

**CHAPTER III**  
**ARTICLE I**

Section 3.10

Immediately upon the effective date of the Code and its regulations or any amendment thereto, no person, firm, society, corporation, or his/her agent or contractor shall construct, occupy or inhabit, offer for rent or lease, with or without compensation in whole or in part, any habitable building or dwelling unless the same is equipped with a safe and adequate water supply approved by a health officer in accordance with the provisions of this Code and its regulations. Further, no water supply or alteration of existing water supply shall be installed or made unless the same is approved by a health officer in accordance with the provisions of this Code and its regulations.

**ARTICLE II – DEFINITIONS**

Section 3.21           AUXILIARY INTAKE

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

Section 3.22           CROSS CONNECTION

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

Section 3.23           INTERCONNECTION

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

Section 3.24           PRIVATE WATER SUPPLY

A "private water supply" is any water supply as defined in 1978 PA 648, part 127; MCLA 333.1101 et seq.; MSA 14-15 et seq.

Section 3.25           PUBLIC AND SEMI-PUBLIC WATER SUPPLIES

A "public and semi-public water supply" is any water supply as defined in 1978 PA 648, part 127; MCLA 333.1101 et seq.; MSA 14.15 et seq.

**ARTICLE III – PRIVATE WATER SUPPLIES**

Section 3.30

Private water supplies hereafter installed shall comply with 1978 PA 648, part 127; MCLA 333.1101 et seq.; MSA 14.15 et seq., and the following:

Section 3.310         LOCATION

All well casing, spring structures, water suction lines, or other drinking water or potable water structure shall be located 50 feet or more from all sources of possible contamination such as seepage pits, cesspools, privies, barnyards, septic tanks, sub-surface disposal systems, surface water drains, waste water or other sources of possible contamination. Buried or unexposed sewers or pipes through which sewage may back up shall not be located closer than then (10) feet from any potable water well casing or suction pipe. When such sewers or pipes are located within the ten to fifty foot (10 to 50) area, the sewer pipes shall be constructed of extra heavy cast iron with leaded and caulked joints tested for water tightness, or other approved material. All wells shall be located so that possibilities of flooding are reduced to minimum. The area immediately adjacent to the well shall be such that the surface water is diverted away from the well casing.

Section 3.320        MINIMUM DEPTH

No wells less than 25 feet in depth shall hereafter be installed or constructed without written approval or the health officer.

Section 3.330        CONSTRUCTION

Section 3.331        PLATFORM AND COVER

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

Section 3.332        POWER PUMP ROOM FLOORS

Every power pump room floor shall be watertight. Pump room floors when above ground shall be at least six inches above the ground surface the outside edges and shall slope away from the pump and casing. The well casing shall extend above the pump room floor so that a one piece concrete pedestal at least twelve inches high can be provided on which to mount the pump over the well casing.

Section 3.333        UNPROTECTED SUCTION LINES



Buried suction lines shall not be permitted.

#### Section 3.334 CASINGS

The casings of a tubular well shall be of at least standard weight iron pipe, or other approved materials, watertight throughout its length and with threaded or welded joints. The casing of all tubular wells shall extend above the top of the platform, floor or pedestal.

#### Section 3.335 HAND PUMPS

Hand pumps shall be designed and fastened so as to exclude all the possibilities of contamination. Such pumps shall be securely fastened to the well casing, and shall have a stuffing box and a closed turned down spout.

#### Section 3.336 POWER PUMPS

Power pumps shall be designed and fastened to the casing so as to exclude all possible contamination. All air relief vents shall be screened and protected against possibilities of contamination entering the vent. Such air vents shall terminate not less than 24 inches from the floor and shall be screened.

#### Section 3.340 GENERAL REQUIREMENTS

##### Section 3.341

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

##### Section 3.342

Storage reservoirs shall be watertight and constructed of an impervious material. All openings into the reservoir shall be constructed so as to prevent the entrance of birds, insects, and animals. Overflow pipes shall not be connected to any drain receiving contaminated water. No physical connection shall exist between the influent lines and the contents of the reservoir or storage tank.

#### Section 3.350 TREATMENT OF UNSATISFACTORY WATER SUPPLY

Groundwater supplies shall comply with the bacteriological, geological, physical, radiological, or chemical requirements and adopted by the Michigan Department of Public Health, pursuant to 1976 P.A. 399; MCLA 325.1011 -.1023; MSA 14.427(1)-(23), and/or the "National Interim Primary Drinking Water Regulations" pursuant to Sec. 1412 of the Public Health Service Act, as amended by the Safe Drinking Water Act, Public Law 93-523 (1974) as amended. If it is not possible to secure satisfactory compliance with these requirements or standards, said water supply shall be abandoned and the well sealed in an environmentally safe manner to protect the water bearing formation against further contamination.

#### Section 3.351 ABANDONMENT OF DRILLED AND CASED WELLS

Drilled and cased wells shall be completely filled with neat cement grout, concrete, or clean puddled clay.

#### Section 3.352 ABANDONMENT OF DRIVEN WELLS

In driven wells, the well point shall be withdrawn and the opening completely filled with neat cement grout, concrete, or clean puddled clay.

#### Section 3.360 DISINFECTION OF WATER SUPPLIES

Wells which are contaminated shall be thoroughly disinfected of bacteriological and/or thoroughly cleaned of chemical or radiological contaminants based on the most prudent and possible available alternative technology or method. Bacteriological and/or chemical analysis for the contaminated parameter shall show the water is safe according to the standards adopted for safe drinking water by the Department of Public Health pursuant to 1976 P.A. 399; MCLA 325.1011-.1023; MSA 14.427(1)-(23), and the standard contained in sec. 3.350 of this Code, before the water shall be approved for any intended use. The person, firm, corporation, well driller, or installer who installs the pump on a new or repaired potable water supply thereby putting that water system into use shall be responsible for disinfecting the entire water system and the water supply lines with a chlorine solution before placing such potable water system into service. The disinfecting solution shall be applied to all parts of the well, pump, fixtures, for at least eight hours after which the potable water supply can be considered approved for drinking and domestic use.

#### Section 3.370 CONNECTION WITH AN UNSAFE WATER SUPPLY

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

Section 3.371            OUTLETS FROM UNSAFE WATER SUPPLIES

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

Section 3.380            REGISTRATION OF WELL DRILLERS, WELL CONTRACTORS  
AND WELL PUMPING INSTALLERS

All persons engaged in the business of construction, installing, or servicing potable water supplies or potable well equipment in Benzie County, Michigan whether for hire by the public or by private individuals shall register with the Health Department in accordance with 1978 PA 368, part 127; MCLA 333.1101 et seq.; MSA 14.15 et seq.

Section 3.390            WELL LOGS

It shall be the duty of all persons engaged in the business of constructing or servicing new potable water supply systems in Benzie County, Michigan, whether for hire by the public or by private individuals, to furnish to the Health Department within 60 days after such potable water supply system is completed such information on location, construction, geological formation and other such pertinent data as the health officer may require for the further information and protection of the water bearing formation for the protection of the public health and safety. A record of these logs shall be kept on file in the Health Department, and such records may be examined by any person.

**ARTICLE IV – PERMIT**

### Section 3.40

On and after December 31, 1989, no person or his/her agent or contractor shall construct any habitable building or dwelling, any private, semi-public and other certain water supplies as defined in these minimum standards, or no person shall install any new or make any alteration of an existing water supply unless and until such person or his duly authorized agent or contractor has been obtained approval and permit from a health officer as required by this Code and its regulations.

Said permit shall be in duplicate and shall contain a sketch showing all pertinent plans and specifications of the proposed water supply installation. Said permit shall be signed by the applicant and by the health officer. One copy of the permit shall be given to the applicant to be posted at the construction site. One copy of the application permit shall be retained by the health officer and remain on file in the Health Department. The health officer shall make such inspection at the site as he deems necessary.

Any construction, installation or alteration of a water supply without permit and approval or in violation of the minimum standards of this Code and its regulations shall be deemed to be a violation of this Code and subject to enforcement and penalties as specified herein.

### Section 3.410 FEE

A schedule of fees for licenses, permits and other services authorized by these regulations shall be established by the Board of Health.

## **CHAPTER IV – HOUSING**

### **ARTICLE I – DEFINITIONS**

### Section 4.10 DWELLING

The term "dwelling" shall mean any building, structure, tent, shelter, trailer or vehicle or portion thereof, which is occupied, will be occupied, or was heretofore occupied in whole or part as home, residence, living or sleeping, or other gathering place designed or used by one or more human beings either permanently or transiently, or occupied in whole or in part as a business wherein one or more human beings is engaged in commercial or industrial activities either on a permanent or temporary basis.

### Section 4.11 DWELLING "UNFIT FOR HUMAN HABITATION"

When it is dangerous or detrimental to life or health because of want of repair, defects in the drainage, plumbing, lighting, ventilation, water supply, or their construction, infection with contagious disease or the existence on the premises of an unsanitary, unsafe or hazardous condition likely to cause sickness, illness, or to endanger the health of occupants of the dwelling, such dwelling shall be unfit for human habitation.

## **ARTICLE II – GENERAL**

### **Section 4.21            VACATION ORDER**

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

### **Section 4.22            PUBLIC NUISANCE**

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

### **Section 4.23            HEALTH OFFICERS DUTY**

The health officer may order purified, cleaned, disinfected, renewed, altered, repaired, or improved any dwelling, excavation, building, structure, sewer, plumbing pipe, passage, premises, ground or thing in or about a dwelling or its lot, where such condition constitutes a hazard to the public health, safety or welfare. The health officer shall cause such orders to be served on the tenant and owner or his rental agent, but such order also may be served on any person

who by contract has assumed the duty of doing the things which the order specifies. In event of non-compliance, the health officer shall within 10 days after such refusal institute appropriate legal action to enforce said order.

### **ARTICLE III – TATTOOING**

#### **Section 4.31            DEFINITION**

Tattooing is the creation of an indelible mark or figure upon the human body by insertion of pigment into or under the skin, or by the production of scars.

#### **Section 4.32            GENERAL**

License required – It shall be unlawful for any person to operate any practice, business, or occupation of tattooing within the jurisdiction of Benzie-Leelanau District Health Department, unless said person possesses a valid license then in force issued by the Health Officer.

#### **Section 4.330           POWERS AND DUTIES OF THE HEALTH OFFICER**

#### **Section 4.331           GENERAL**

The Health Officer shall have the authority to regulate the design, installation, operation and maintenance of any tattooing practice, business, or occupation under the jurisdiction of Benzie-Leelanau District Health Department.

#### **Section 4.332           POWER TO ESTABLISH GUIDELINES**

The Health Officer may establish guidelines concerning the interpretation of this article. Such guidelines shall be subject to review and approval by the Board of Health.

#### **Section 4.340           LICENSING PROCEDURES**

#### **Section 4.341**

A person shall comply with all applicable requirements of these Environmental Health Regulations for Benzie-Leelanau District Health Department in order to be entitled to receive and retain a license. A license shall not be transferable as to

person or place. The license shall be placed in a conspicuous place in every establishment.

Section 4.342

Every license issued hereunder shall expire at midnight on December 31, following date of issuance, or as otherwise stated on the license. Any required license shall be deemed to be in effect as of the date of the Health Officer's approval of the application for same.

Section 4.343

Any person desiring to engage in the practice, business, or occupation of tattooing shall make written application for a license on forms provided by the Health Officer. Failure on the part of the applicant to fully complete the required application may be deemed cause for refusal to issue a license.

Section 4.344

Upon receipt of a properly completed application accompanied by the appropriate fee, established by the Benzie County Board of Commissioners, the Health Officer shall make an inspection and shall determine compliance with the applicable provisions of the statutes and these Environmental Health Regulations for Benzie-Leelanau District Health Department. Upon confirmation that the applicable requirements have been satisfactorily met, a license shall be issued to the Applicant by the Health Officer. The Applicant may thereafter be referred to as "Licensee".

Section 4.350      LICENSE ACTIONS

Section 4.351      DENIAL OF LICENSE

If the Health Officer finds good and sufficient reason to deny an application for license, he shall issue a notice to the Applicant in writing that the license will not be issued, citing the deficiencies or non-complying items that constitute his reasons for not issuing the license. Until the Applicant has satisfactorily complied with the requirements of these regulations and the terms and conditions of the Notice, the Applicant shall be denied a license.

Section 4.352      SUSPENSION OF LICENSE

Any license issued pursuant to the provisions of these regulations may be suspended by the Health Officer for failure of the Licensee to comply with the applicable requirements of said Regulations. Upon notification of such suspension the Licensee shall immediately cease operations.

#### Section 4.353            REVOCATION OF LICENSE

For serious or repeated violations of any of the requirements of these Regulations, or for interference with the Health Officer in the performance of his duties, a license may be revoked by the Health Officer after an opportunity for a hearing has been provided. Prior to such action to revoke a license, the Health Officer shall notify the Licensee in writing, stating the reasons for which the license is subject to revocation and advising that the license shall be revoked at the end of five days following the service of such notice, unless the Licensee files a request for a hearing within such five days, and unless the Licensee at said hearing satisfactorily shows cause why his license should not be revoked. A license may be suspended for cause, pending its revocation or a hearing and decision relative thereto.

#### Section 4.36            INSPECTION OF TATTOOING PREMISES

The Health Officer shall have the authority to inspect every premise and location at which the practice of tattooing is being carried on within the jurisdiction of these Regulations and shall make as many inspections and reinspections as are deemed necessary for the enforcement of these regulations and applicable statutes.

#### Section 4.37            NOTICE OF SUSPENSION OF LICENSE

Whenever, in the opinion of the Health Officer, continued operation of a tattooing practice, business, or occupation would create a substantial hazard to the public health, the Health Officer may issue a written notice to the Licensee or operator thereof, citing such conditions and stating that the license is immediately suspended and that all tattooing operations shall be discontinued at once. The Licensee shall immediately comply with the Notice of Immediate Discontinuance of Operation and there shall be no further tattooing until or unless the license shall have been reinstated.

#### Section 4.38            REINSTATEMENT OF SUSPENDED LICENSES



Any person whose license has been suspended may, at any time, make a written application for reinstatement of the license. Such a written application shall include a statement signed by the applicant to the effect that, in the applicant's opinion, the conditions causing such suspension of the license have been corrected. Within reasonable time, not exceed ten working days following the receipt of such application, the Health Officer shall make a reinspection. If the Applicant is then in satisfactory compliance with these regulations and applicable statutes, the license shall be reinstated.

Section 4.39                      UNLAWFUL CONDITIONS OF TATTOOING PREMISES

Needles, dyes, inks and other materials or equipment used in tattooing shall be kept in a clean, sterile and non-toxic condition and the environment of the premises shall be such as to prevent transmission of etiologic agents. Violation of this provision is hereby declared detrimental to health and dangerous to human life and shall be considered a nuisance for purposes of Section of 4.22 of these Regulations.

## **CHAPTER V**

Section 5.10                      VIOLATION OF THE CODE

Upon receipt of information that a violations of the Code or its regulations will adversely affect or endanger public health, safety, welfare or the environment, and after consultation, with the Director of the Department, the Board of Health, or the health officer or his/her designated representative may:

- A. Issue a Cease and Desist Order and suspend any permit, Certificate or other approval issued pursuant to this Code to the owner or other person violating this Article, and afford the owner or other interested person Notice and Opportunity for Hearing as provided in Sec. 5.19 of this Article;
- B. Request the prosecuting attorney in the County where the violation has occurred or is occurring to commence an action to enjoin the act or practice and obtain injunctive relief and abatement upon a showing that a person has violated, or is continuing to violate, any Article or provision of the Code in a manner that may become injurious to public health, safety or welfare. Upon approval of the Board of Health, the health officer may obtain the services of a special attorney to commence and prosecute such action for injunctive relief or abatement. The action authorized by this paragraph shall include all injunctive relief to restrain, prevent or correct a violation of law, rule or order which the health officer has a duty to enforce; or to restrain, prevent or correct any activity or condition which the health

officer believes "adversely effects the public health" as authorized by 1978 PA 368, part 127; MCLA 333.1101 et seq.; MSA 14.15 et seq., or other law. In addition to injunctive or other relief as authorized herein, the health officer may seek costs of avoiding, correcting, removing or abating the violation requiring immediate response, including any other costs authorized by law in such action.

#### Section 5.11            RESTRAINING ORDER

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

#### Section 5.12            CIVIL FINES OR PENALTY

Any person who violates a provision of the Code, or makes a false statement or representation with respect to any material matter under this Code, should be liable for fines or civil penalties of not more than \$1,000.00. If a violation is of a continuing nature, then each day that a violation occurs shall be considered a separate offense and shall be subject to a separate fine or penalty for each such occurrence. Any person who violates a provision of this Code, or who makes a false statement under the Code, shall be subject to an assessment of costs for enforcement action authorized and required, including, but not limited to the cost of abatement, remediation, prevention of further violation, expert witness fees and actual attorney fees. Any enforcement action taken under this provision shall not constitute a waiver of any other claims or remedy of a health officer or the Health Department as provided for in this Code and Regulations, or other law.

#### Section 5.13            INJUNCTION

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

assessed against the defendant.

## Section 5.14           ISSUANCE OF A CIVIL CITATION

If a local Health Department representative or health officer believes that a person is violating a provision of this code or an order issued pursuant to this code which the local Health Department has the authority and duty to enforce, the representative may issue a citation at that time or not later than ninety (90) days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation including reference to the section, rule, order or regulation believed to be, or have been, violated, the civil penalty established for such violation, if any, and a right to appeal the citation pursuant to Section 2462 of 1978 PA 368; MCLA 333.2462; MSA 14.15(2462); or 5.19 of this Code and its Regulations. The citation shall be delivered or sent by certified mail to the alleged violator. This provision is optional, and a decision by the health officer not to issue a citation shall not be construed to waive any other rights or remedies authorized by law or this Code.

- (A) The alleged violator may petition the local Health Department for a Hearing not later than twenty (20) days after receipt of the citation, and the Hearing shall be held within thirty (30) days after receipt of the petition. The Administrative Hearing shall be conducted in accordance with Section 5.19 of this Code. After the Hearing, the health officer may affirm, dismiss or modify the citation. The decision of the local health officer shall be final, unless within sixty (60) days of the decision the Board of Health or its duly delegated committee grants review of this citation, and after such review, affirms, dismisses or modifies the citation.
- (B) A person aggrieved by a final decision of the health officer or the Board of Health or its designated committee, may petition for review the Circuit Court of the county where the property or premises is located. In the event that the sewage disposal system or water supply crosses the boundaries of two counties, a petition for review may be filed not later than sixty (60) days following receipt of the final decision from the health officer, Board of Health or its designated committee, and not later than the time period provided by the Michigan Court Rules, as amended. The time periods for appeal shall begin to run the day after the date of such final decision.
- (C) A civil penalty for violation pursuant to this Section shall be final if a petition for an Administrative Hearing or Review is not received by the Department or Board of Health within the time specified in this Section. In the event a civil penalty is not paid, the health officer is authorized to commence a civil action to collect the same in the County in which the violation occurred or the defendant resides, and such action shall be an addition to any other action authorized by law.
- (D) The authority for issuing a citation as set forth in this Section at the option

of a health officer may be issued and served pursuant to 1927 PA 175, Chapter 4; MCLA 764.9(a)-(g); MSA 28.868(1)-(7).

Section 5.15           ASSESSMENT AGAINST THE PROPERTY

If the owner or person violating a provision of this Code refuses on demand to pay such expenses incurred by the Department to abate, correct or remove a violation, unsanitary condition or nuisance under Section 5.151, the sum shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general tax laws of this State.

Section 5.151         REMOVAL OF A NUISANCE

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

Section 5.16           ISSUANCE OF A WARRANT

If an owner of the premises in which a condition causing nuisance, unsanitary condition or person violating the provision of this Code does not comply with an order to such owner or person to avoid, correct or remove such condition which the health officer has reason to believe exists, the health officer may cause such violation, nuisance or unsanitary condition to be removed and may seek a warrant for this purpose. In such event, the owner of the premise shall upon demand pay the reasonable expenses incurred. Warrants shall be based upon facts which establish a reasonable belief that such nuisance, unsanitary condition or violation exists.

Section 5.17           INSPECTIONS AND INVESTIGATIONS

To assure compliance with this Code and its regulations, the local Health Department or a health officer may inspect, investigate or authorize an inspection or investigation to be made of any matter, thing, premise, place, person, record, vehicle, incident or event where a health officer has reason to believe that noncompliance with the laws enforced by a state or a Health Department exists.

Section 5.171            RIGHT TO OBTAIN SAMPLES

An inspection, under Section 5.17, shall include the right to obtain samples where a health officer has reason to believe that there is a likelihood of contamination of surface water, ground water, water supply or other unsanitary conditions. Upon written notice, an owner or occupant of premises for which such inspection is sought shall provide a reasonable opportunity to a health officer or his/her designated representative. In the event an owner or occupant fails or refuses to provide such opportunity for inspection within ten (10) days of such written notice, a health officer shall have the right to petition a Circuit Court for an order enforcing this Section.

Section 5.18            CONVICTION OF MISDEMEANOR

Any person who violates a regulation or provision of this Code is guilty of a misdemeanor, punishable by imprisonment for not more than six (6) months, or a fine of not more than \$200.00 or both, or a fine not in excess of that authorized by 1978 PA 368; MCLA 333.1101 et seq. MSA 14.15 et seq.; or both. Conviction by jury, court or voluntary plea and acceptance by court under this provision shall not waive any other claim for fines, costs, injunctive or other relief authorized by this Code.

Section 5.19            HEARINGS AND APPEALS

In the event that an owner or interested person is adversely affected by any determination under this Code, the owner or such interested person may request in writing a Hearing before the Board of Health or its designated Committee within thirty (30) days of the date of such determination. Upon receipt of such request, the health officer shall issue a Notice of Hearing within fifteen (15) days of the receipt of the request, and a Hearing shall be held at the next regular meeting of the Board of Health, or its designated Committee, scheduled for such purposes; provided, that a Hearing shall be conducted not later than sixty (60) days from the date of Notice of Hearing. The Hearing shall be conducted with flexibility in regard to rules of evidence and because of the quasi-administrative nature of the proceeding, and the decision of affirming, reversing or modifying, any such determination shall be based upon a majority vote of the Board of Health or its designated committee, and based upon the whole record of testimony and exhibits received at the Hearing. A decision of the Board of Health or its designated committee shall state the reasons and grounds for such decision, and the decision shall be in writing, and a copy shall be furnished to the owner, any interested person, and the health officer within thirty (30) days of the decision. In reviewing a determination, the Board of Health shall not reverse or modify any decision of the health officer unless the owner or an interested person

can show any of the following:

- (a) that there is no feasible and prudent alternative site, method or corrective action; or
- (b) that the sewage disposal system will not contaminate or pollute a water supply, potable ground water, surface water and/or adversely affect or endanger the public health.

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