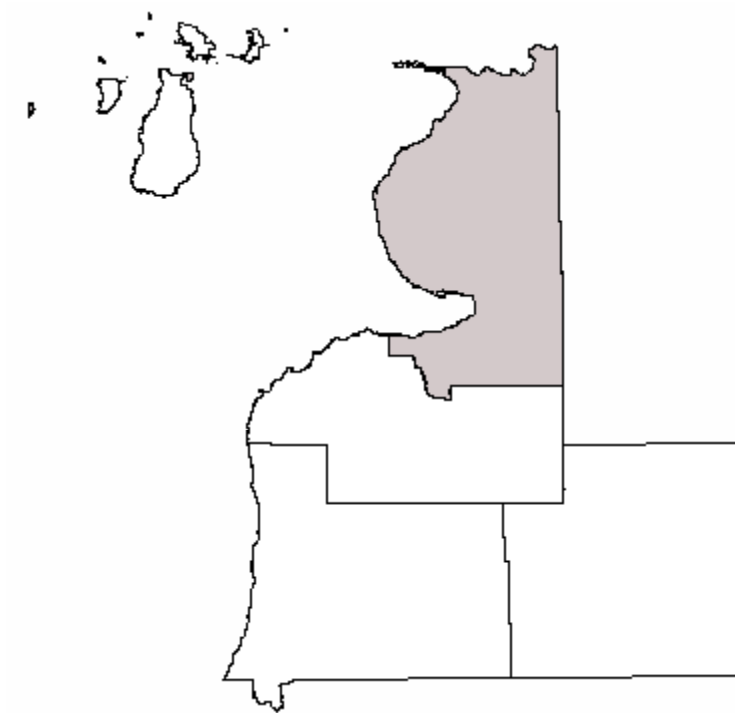


NORTHWEST MICHIGAN COMMUNITY HEALTH AGENCY
Health Department of Northwest Michigan

DISTRICT SANITARY CODE



Emmet County

**Effective Date:
February 25, 2007**

APPROVED BY COUNTY BOARD OF COMMISSIONERS
FROM ANTRIM – CHARLEVOIX – EMMET – OTSEGO COUNTIES
AND NORTHWEST MICHIGAN COMMUNITY HEALTH AGENCY

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EMMET COUNTY SANITARY CODE
EMMET COUNTY. MICHIGAN

ARTICLE I AUTHORITY, JURISDICTION AND ADMINISTRATION

1-1 AUTHORITY

By virtue of the power vested in the Northwest Michigan Community Health Agency under 1978 PA 368, as amended, there are hereby provided, regulations affecting public health and sanitation, including the provision for penalties for violation of said regulations.

1-2 INTENT

The intent of this code is to regulate the disposal of sewage, and the construction of water supplies in Emmet County, in a manner so as to protect the public health.

1-3 JURISDICTION AND ADMINISTRATION

The Health Officer shall have jurisdiction throughout Emmet County, including all cities, villages and townships, in the administration and enforcement of these regulations, including all amendments hereafter adopted, unless otherwise specifically stated.

Nothing herein contained shall be construed to restrict or abrogate the authority of any municipality to adopt more restrictive codes.

1-4 ENFORCEMENT

All premises affected by these regulations shall be subject to inspection by the Health Officer, and the Health Officer may collect such samples for laboratory examination as the Health Officer deems necessary for the enforcement of these regulations.

1-5 RIGHT OF ENTRY AND INSPECTION

The Health Officer may inspect any premises at reasonable times with the consent of the owner or person in charge of the premises. No person shall molest or resist the Health Officer in the discharge of the Health Officer's duty. In the event that a Health Officer is refused permission to inspect any premises at reasonable times, the Health Officer shall have authority to apply for an administrative search warrant pursuant to MCL 333.2241 through MCL 333.2247; MSA 14.15(2241) through MSA 14.15(2247).

1-6 RESIDENTS' RIGHTS

The right to be secure from unreasonable searches under the Constitution applies. It is not a violation of this code or regulations for a person to refuse to admit the Health Officer for an inspection without a warrant.

It is a misdemeanor to maliciously and without cause procure an inspection or investigation warrant to be issued or executed. MCL 333.2247; MSA 14.15(2247).

1-7 HANDLING OF FEES

All fees for services shall be set and collected by the Northwest Michigan Community Health Agency and shall be receipted for and deposited with the Charlevoix County Treasurer and credited to the Northwest Michigan Community Health Agency.

1-8 OTHER LAWS AND REGULATIONS

The regulations of this code are standards supplemental to the rules and regulations duly enacted by the Michigan Department of Environmental Quality, and to the laws of the State of Michigan relating to public health. Where any provision of this code and the provisions of any other local code, statute or regulation duly adopted under the Michigan Administrative Procedures Act or other applicable law apply, the more restrictive shall prevail.

1-9 AMENDMENTS

The Northwest Michigan Community Health Agency, with the approval of all Boards of Commissioners of Antrim, Charlevoix, Emmet and Otsego Counties, may from time to time amend, supplement or change these regulations. Notice of a public hearing on any such proposed changes shall be given by the Northwest Michigan Community Health Agency as provided in MCL 333.2442; MSA 14.15(2442).

1-10 REPORTS

The Health Officer shall once each year give an annual report to the Emmet County Board of Commissioners. This report shall be given after January 1, and before May I. It shall include, among other information, the number of applications for permits; applications denied; appeals; appeals granted; land evaluations; sites found suitable; sites found unsuitable with a list of the reasons; evaluations of existing septic systems; existing system evaluations with no deficiencies found; existing system evaluations with deficiencies noted; subsurface systems with deficiencies; mound systems with deficiencies; the ages of systems with deficiencies and corrective steps ordered; administrative warrants issued to inspect premises; new mound or fill systems; and new mound or fill systems inspected after construction of tile field and absorption bed and before coverage.

ARTICLE 2 DEFINITIONS

2-1 ABSORPTION FIELD, TRENCH OR BED, TILE FIELD

An absorption field, trench or bed or tile field is a means of distributing septic tank effluent below the ground surface by means of a line or a series of lines of drain pipe laid on a bed of washed stone with openings so as to allow the effluent to be absorbed by the surrounding soil. (For absorption field, see Section 7-4.6; for absorption trench, see Section 7-4.4.)

2-2 DISTRIBUTION DEVICE

The term “distribution device” means a receptacle installed with proper footings, provided with outlets on the same horizontal plane, used for the purpose of assuring the equal distribution of the septic tank effluent when such effluent is being disposed of by means of any absorption field, trench or bed.

2-3 DOSING CHAMBER

The term “dosing chamber” means a watertight tank or receptacle used for the purpose of retaining the overflow of effluent from a septic tank pending its automatic discharge to a selected point.

2-4 CONDOMINIUM PROJECT

The term “condominium project” means that term as defined in Section 4 of the Condominium Act, 1982 PA 538, as amended.

2-5 HABITABLE BUILDING

The term “habitable building” means any structure or part thereof where persons live, sleep, reside, are employed or congregate and which is occupied in whole or in part.

2-6 HEALTH AGENCY

The term “Health Agency” means the Northwest Michigan Community Health Agency.

2-7 HEALTH OFFICER

The term “Health Officer” means the Director of the Health Agency and/or the Director’s authorized representatives.

2-8 HOLDING TANK

The term “holding tank” means a watertight tank of material approved by the Health Officer which has the outlet end of the tank sealed, is underground, and is equipped with an alarm to indicate the level of the contents.

2-9 IMPERVIOUS

The term “impervious” means any material which does not percolate one (1) inch of water in 60 minutes, using standard percolation tests. (See Article 5.)

2-10 ORDINARY HIGH WATER MARK

The term “ordinary high water mark” means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water are so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the

vegetation. On an inland lake which has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark. On waters regulated by the Michigan Department of Environmental Quality, the term refers to the mark set in 1986 (582.35 feet above sea level).

2-11 OWNER

The term “owner” and “person owning premises” means both the owner of title and of record and those occupying or in possession of the premises.

2-12 PERSON

The term “person” means an individual, firm, partnership, party, corporation, company, society, association or other legal entity.

2-13 PLAT

The term “plat” means that term as defined in Section 102 of the Land Division Act (formerly Subdivision Control Act of 1967), 1967 PA 288, as amended.

2-14 PREMISES

The term “premises” means a tract or parcel of land on which a habitable building is located and shall include the building.

2-15 SEPTIC TANK

The term “septic tank” means a watertight 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 retained solids to undergo decomposition therein.

2-16 SEPTIC TANK MARKER

The term “septic tank marker” means a device to mark the location of the effluent inspection port of the septic tank.

2-17 SEPTIC TANK RISER

The term “septic tank riser” means a device to raise the effluent inspection cover to within 18” of the ground surface, if the tank is placed greater than 18” below finished grade.

2-18 SEWAGE

The term ‘sewage’ means liquid waste from all habitable buildings and human excreta as well as wastes from toilets, urinals, sinks, laundries, showers, baths, bathtubs, dishwashers, garbage grinders, and septic tank overflow or effluent.

2-19 SEWAGE DISPOSAL FACILITIES

The term “sewage disposal facilities” includes a privy, seepage pit, dry well, block trench, sewer line, septic tank, holding tank, subsurface field, trench or bed or similar device used in the disposal of sewage.

2-20 SEWAGE DISPOSAL SYSTEM

For the purpose of this code, the term “sewage disposal system” means a method of disposing of sewage by means of a sewer line connected to a septic tank or aerobic tank and one or more of the following: dry well, seepage pit, block trench, subsurface field or bed, or any other similar device or devices approved by the Health Officer.

2-21 SEWAGE FILTER

The term “sewage filter” means a device to remove solids from the sewage stream located in the effluent sewage baffle or in place of it.

2-22 SEWER

The term “sewer” means any pipe or conduit for transporting sewage.

2-23 STREAM

The term “stream” means a natural or artificial body of water which has definite banks, a bed, and visible evidence of a continued flow of water.

2-24 SURFACE WATER

The term “surface water” means any of the following: the Great lakes and their connecting waterways, inland lakes, rivers, streams, and unlined man-made ponds.

2-25 TERMS NOT DEFINED HEREIN

Any other terms used herein not defined above shall have the natural and usual meaning as found in the trade, or as defined in trade journals, including, but not limited to, *The Journal of Environmental Health, Residential Waste Water Systems; Environmental Protection Agency Report No. EPA-625/1-80-OJ2, Design Manual: Onsite Wastewater Treatment and Disposal Systems; Small Flows Clearinghouse University of West Virginia*; or publications by the National Sanitation Foundation.

2-26 WATER TABLE

The term “water table” means the highest elevation in the soil where all voids are filled with water. Mottling or soil discoloration is not to be used as the only evidence of water table.

ARTICLE 3 PLATS AND SITE CONDOMINIUMS

3-1 REQUIREMENTS

From and after the effective date of this code, no plat or site condominium subdivision plan shall be approved by any municipal corporation in Emmet County where such plat or site condominium subdivision plan is not served by a public water supply system and/or a public sewage system unless the requirements of this Article have been met and fully complied with by the owner of the plat or site condominium project.

3-2 SITE REPORTS AND TESTS

Plats or site condominium subdivision plans which propose the use of individual water supply and/or sewage disposal systems shall be submitted to the Health Officer for the Health Officer's determination of the suitability of the land for the installation of individual water supply and sewage disposal systems. When the Health Officer makes the determination, the Health Officer shall send the plat or site condominium subdivision plan to the municipal corporation with a Certificate of Environmental Suitability if the plat or site condominium subdivision plan meets the requirements of this code. Said Certificate shall be prepared and signed by the Health Officer or the Health Officer's authorized representative. Such Certification shall be based upon an evaluation of a site report which shall be prepared by a registered professional engineer or a registered land surveyor. Four copies of the preliminary plat map, or site condominium subdivision plan, and site reports shall be submitted to the Health Officer and shall include the following:

- 3-2.1 A statement and plan as to the proposed use, size and arrangement of lots, showing all areas in excess of 10% grade and all natural drainage areas.
- 3-2.2 With waterfront property, high water elevations and 2' vertical contour intervals if water table is within 6' of the ground surface.
- 3-2.3 Areas where water table is within 6' of the ground surface.
- 3-2.4 The location and results of the standard percolation tests and subsoil data using procedures acceptable to the Health Agency. (See Section 5-6.)
- 3-2.5 The proposed name of the subdivision on the plat or site condominium subdivision plan.
- 3-2.6 The location as to section number, town, range, township and county.
- 3-2.7 The name and address of the owner, subdivider and/or applicant.
- 3-2.8 North arrow, date, street names, lot and plat dimensions.
- 3-2.9 The typical lot layout of the single family dwellings and facilities. If the proposed use of the lots will be for other than single family residence, the typical location shall be indicated for each lot so used.

- 3-2.10 The report with signature and seal of the registered engineer or registered land surveyor preparing the site reports and the Certificate of Environmental Suitability shall be prepared in triplicate. One copy shall be given to the applicant; one copy shall be filed with the municipal corporation; and one copy shall be submitted to the Health Officer.

3-3 ENVIRONMENTAL CERTIFICATION OF PLATS AND SITE CONDOMINIUMS

No plat or site condominium subdivision plan shall be certified where conditions noted in the site report do not meet the requirements in this code. Such requirements as hereinafter provided may take into account the size of the structure or building being placed on a particular lot or plat, and may likewise take into account and consider the contemplated use to be made of any lot or plat.

3-4 CRITERIA FOR ENVIRONMENTAL CERTIFICATION

Those portions of individual lot sites contained within a proposed plat or site condominium subdivision plan shall not be certified for on site sewage disposal where the following conditions exist:

- 3-4.1 Where percolation tests indicate that the stabilized percolation rate exceeds 60 minutes per inch of fall.
- 3-4.2 Where the maximum groundwater elevation or adjoining surface water is within 5' of the natural land surface or finished grade.
- 3-4.3 Where conditions of flooding are known to occur and where such conditions will be in conflict with the development of safe and adequate systems for water supply and sewage disposal.
- 3-4.4 Where the area of the lots does not provide an available location for the absorption field which has a gross area equal to at least two (2) times that area required by the percolation test for the initial installation.
- 3-4.5 Where rock formation or impervious strata is within 6' of finished grade.
- 3-4.6 Where slopes are greater than 12%.
- 3-4.7 Proposed sites may be modified to meet minimum criteria by fill, cut and fill, or lowering the groundwater in accordance with allowances for such modifications as described in rules for the division of land as issued by the Michigan Department of Environmental Quality.
- 3-4.8 Where public water and sewage systems are available.

ARTICLE 4 SEWAGE DISPOSAL

4-1 SEWAGE DISPOSAL ON ALL PREMISES

No person shall construct or maintain any premises which is not equipped with adequate facilities for the disposal of sewage. Under no condition may sewage be discharged or deposited upon the surface of the ground or into a roadside ditch or watercourse, stream, lake or any drain other than a sanitary sewer, and those systems approved by the Health Officer. (See Section 4-10.)

4-2 PERMIT REQUIRED

From and after the effective date of this code, it shall be unlawful for any person to construct, repair or enlarge any sewage disposal facility within Emmet County unless the person has a permit issued by the Health Officer or the Health Officer's authorized representative. In the case of alteration, repair or enlargement, the permit requirement may be waived by the Health Officer or the Health Officer's authorized representative after reviewing the proposed work.

4-3 PERMIT APPLICATION

An application for a permit shall be required for any installation and shall be signed by the applicant. A plan of the proposed disposal system with such data as the Health Officer may require shall be submitted on forms supplied by the Health Agency. A copy of this code shall be made available to the applicant. An owner of any interest in real property or his agent may apply for the permit.

4-4 INFORMATION REQUIRED

Before such permit shall be issued, the applicant shall supply a sketch containing the following information:

- 4-4.1 Location, address, lot size and dimensions of the parcel or lot.
- 4-4.2 Location and size of existing and proposed buildings on the parcel or lot.
- 4-4.3 Location of proposed water supply and location of existing supplies within 100' of proposed sewage facilities.
- 4-4.4 Location of existing dry wells, cesspools, septic tanks and disposal fields on the parcel or lot and within 100' of premises.
- 4-4.5 Location of all proposed sewage disposal facilities.
- 4-4.6 Location of any lake, river, stream or watercourse within 150' of the proposed sewage disposal facility.

4-5 CRITERIA FOR PERMIT APPROVAL

The Health Officer shall have the right to reject an application for an on site sewage disposal system where any one or more of the following conditions exist:

- 4-5.1 A public sanitary sewer system is available within 200 of the building within which sewage originates.
- 4-5.2 The property served lacks sufficient area for proper isolation from existing water wells, the premises water well, or a lake or stream. (See Section 7-4.2, Table 2.)
- 4-5.3 The percolation rate is more than 60 minutes per inch.
- 4-5.4 The maximum groundwater table is less than 5' from the natural ground surface. A vertical separation of 3' shall be provided between base of trench or bed and maximum groundwater table.
- 4-5.5 In the case of property adjoining a lake, lagoon, river or stream, the natural ground surface is less than 4' above the known high water mark or less than 4' above the ordinary high water mark of Lake Michigan as defined at MCL 322.702; MSA 13.700(2).
- 4-5.6 Bedrock is within 6' of the natural ground surface.

4-6 ADDITIONAL SITE CRITERIA FOR FILLED SITES AND THE INSTALLATION OF MOUNDS

Mounds may be constructed on sites where groundwater, impervious formations, or creviced rock do not meet the above criteria, provided the following additional criteria are met:

- 4-6.1 The seasonal high groundwater elevation and impervious formation is at least 2' below the natural ground surface.
- 4-6.2 The proposed absorption bed area does not experience flooding from a watercourse, river, stream or lake within a five (5) year period, nor lies below the ordinary high water mark of Lake Michigan. Water standing on frozen ground shall not be considered flooding.
- 4-6.3 Where the down gradient finished slope prior to construction of the mound is not over 12%, and the percolation rate is not over 30 minutes per inch. If the percolation rate is between 30 and 60 minutes per inch, the slope shall not exceed 6%.
- 4-6.4 If there is a drainage problem on a parcel or lot and the property can be drained, the proprietor may be required to complete the grading or lot modification prior to permit issuance.
- 4-6.5 Where the groundwater aquifer is protected and where creviced bedrock is present, there must be a minimum of one (1) foot of natural porous soil overlying the creviced rock. Elevated systems constructed in these conditions must provide for a minimum of 4' of separation between the creviced rock and the bottom of the absorption bed. The second

and third foot down from the bottom of the aggregate shall have a percolation rate of 10 minutes or more per inch. Such system, if a mound, shall otherwise conform with Section 7-5, and shall be constructed no closer than 100' from any water well.

4-6.6 If the proposed construction meets the requirements of this code, a permit shall be issued to such applicant.

4-7 TIME FOR RESPONSE

After an application for a septic system has been filed and the fee paid, the Health Officer shall within ten (10) working days:

4-7.1 Grant the permit; or

4-7.2 Grant the permit if specified changes in the plan are accepted by the applicant and owner; or

4-7.3 Deny the permit with a written statement of specific reasons for denial; or

4-7.4 Notify the applicant that ten (10) additional working days may be required to process the application; or

4-7.5 Notify the applicant that the permit cannot be processed at this time because of winter conditions or because the high water table cannot be determined because of seasonal conditions. No delay under this Section may extend beyond the following Spring.

4-8 CARDS

When a permit is issued, the Health Agency shall provide a card of durable material which the applicant shall post at the site while the system is under construction.

The card shall contain a place for the initials of the Health Officer and room to write the reason why an installation is disapproved, in the event of disapproval.

4-9 INTERFERENCE WITH NOTICES

No person shall remove, mutilate or conceal any notice or placard until after final inspection by the Health Officer.

4-10 CHANGES

No change shall be made in the plan(s) approved without the written consent of the Health Agency and the applicant for the permit.

4-11 DURATION OF PERMITS

Permits shall be valid for three (3) years after the date of issuance. Permits may be transferred without charge at change of ownership of property upon an application to the Health Officer who shall issue a transfer of the permit, provided conditions remain unchanged.

A revision in a development plan shall require an application for a new permit, and all sections of this code pertaining to new permits shall then apply.

4-12 INSPECTIONS

The Health Officer shall, prior to covering of the system, make a minimum of one (1) inspection during construction of each site for subsurface systems and two (2) inspections during construction for mound or fill systems. Engineered systems shall be inspected by the design engineer, and an affidavit with an “as built” drawing shall be submitted to the Health Agency within five (5) working days. All systems shall have a final inspection by the Health Officer.

4-13 NOTICE TO HEALTH OFFICER

The owner or his agent shall notify the Health Officer when the project is ready for final inspection. After notifying the Health Officer, the system may not be covered for two (2) working days, or until inspected, whichever shall occur first.

4-14 MUNICIPAL SEWER CONNECTIONS

Where a public sewer is available, all new buildings shall be connected to such public sewerage at the time of construction. When a public sewerage system becomes available, existing premises shall be connected to same at such time as may be deemed necessary by the Health Officer or in accordance with the local codes and State law.

4-15 PRIVIES

All privies and portable toilets shall be constructed and maintained in accordance with State law.

4-16 SUCCESSOR BUILDINGS

A building or mobile home using an existing sewage disposal system may be replaced by a successor building or mobile home which then may use the same sewage disposal system, provided the system is adequate for the replacement building in terms of the stated requirements of this code, other than the set back requirements of Section 7-4.2, provided the septic tank drainfield is not less than 50’ from wells and not less than 50’ from surface water.

4-17 UNSUITABLE SITES

If a site does not comply with the standards of this code, but is otherwise buildable, an off site location may be used for the disposal system, provided the off site location meets the criteria for on site approval.

4-18 SEWAGE DISPOSAL SYSTEM EASEMENTS

Easements for sewage disposal systems must comply with this section.

Definitions: As used in this section, the following terms shall have the following meanings:

“Applicant” means the person who owns a benefited parcel.

“Benefited parcel” means land which will be served by a sewage disposal system or a proposed sewage disposal system.

“Burdened land” means the land over and under which any portion of a sewage disposal system will be located.

“Separate, legally recognized parcel” means a parcel of land which is described in a legal description separate from the benefited land.

“Third party” means all owners of the burdened land.

- 4-18.1 If the applicant will place any portion of the sewage disposal system on a separate, legally recognized parcel, then an easement must be prepared and recorded in accordance with this section. A third party must have ownership of the burdened land. If the parcels are owned by the applicant, then the applicant shall comply with section 4-18.4.
- 4-18.2 The easement shall be in a recordable form approved by the Health Agency. The Health Agency shall determine whether the form of the easement meets this code, whether the easement document is ambiguous, and whether the easement document is legally binding.
- 4-18.3 In addition to the application fee and prior to a decision on the application, the applicant shall reimburse the Health Agency for all attorney fees incurred by the Health Agency related to legal review of the easement. The Health Agency will seek such legal review only when it has a good faith question regarding the form, completeness, or legality of the easement. The Health Agency shall set and revise the application fee as needed to cover the Health Agency’s estimated costs in processing an application.
- 4-18.4 If the applicant will place any portion of the sewage disposal system on a separate, legally recognized parcel that is also owned by the applicant, then the applicant shall have prepared and sign an affidavit in a form approved by the Health Agency that contains at a minimum the legal descriptions of the burdened land and the benefited parcel; the names of all owners; the existence of the portion of the sewage disposal system that is located on the burdened parcel; and a statement that, at the time of separation of the common ownership of the benefited and burdened parcels, an easement document must be prepared and recorded with the Emmet County Register of Deeds as required by this regulation and the terms of the septic permit that is located on the benefited parcel.
- 4-18.5 For purposes of maintenance and repair of the sewage disposal system, the easement shall include an area which is at least 10’ from any portion of any component of the sewage disposal system.

- 4-18.6 Plans must be submitted for a drain field that will be located on burdened land. Plans shall include a survey that shows the boundaries of the burdened land and the location of the drain field. The survey shall be certified by a registered land surveyor within 60 days of the date of the submission to the Health Agency of the application for the sewage disposal system permit.
- 4-18.7 If the easement is in a form which has not been pre-approved by the Health Agency, then, in addition to the requirements that are specified in section 4-18.2, the easement document must include the legal description of the easement; the legal descriptions of the burdened land and the benefited parcel; the purpose or land use of the buildings being served by the septic system (for example, single family residential or commercial); the maximum effluent burden which can be placed on the burdened land (for example, a drain field for a three-bedroom house); that there may be no increase in the effluent discharge on the burdened land without an easement amendment which has been approved by the Health Agency and the owner of the burdened land; and a requirement that the easement will run with the benefited and burdened parcels.
- 4-18.8 The Health Agency shall require written evidence that all requirements of these regulations have been met.
- 4-18.9 The Health Agency shall require proof that all documents which must be in recordable form have been recorded with the Emmet County Register of Deeds prior to the issuance of the sewage disposal system permit.
- 4-18.10 The sewage disposal system shall meet all requirements of the Emmet County Sanitary Code.
- 4-18.11 An **operation permit** must be obtained from the Health Agency for any sewage disposal system requiring an easement. The **operation permit** shall allow the use of off-site or remote disposal of residential or commercial wastewater for a maximum of 3 years from the time of permit issuance. A new **operation permit** must be obtained every 3 years for as long as the easement is used in conjunction with a benefited parcel for the purposes of sewage conveyance and disposal and also when there is any change in use of the benefited parcel. A complete application for an **operation permit** for an off-site system shall consist of a Health Agency-approved application form which contains all specified information so that the Health Agency can make a determination regarding whether the standards for the issuance of the **operation permit** have been met. The Health Agency shall set the **operation permit** fee. An application that is not complete shall not be approved.
- 4-18.12 An **operation permit** shall be issued by the Health Agency if the applicant has provided competent, material and substantial evidence which allows the Health Agency to find that all of the following standards have been met:
- (a) Risers are secure and watertight.
 - (b) Effluent filters are clean and functional.

- (c) All pumps, floats and alarms are functioning properly.
- (d) Adequate pressure exists to provide for proper conveyance and uniform distribution of wastewater to the final disposal area.
- e) No evidence of failure of any component of the system or observance of sewage on the ground surface exists.

The Health Agency may impose **operation permit** conditions that are designed to promote compliance with the standards listed above as part of the issuance of an **operation permit**. An **operation permit** shall be valid only as long as the sewage disposal system remains in compliance with the requirements and restrictions stated on construction and operation permits.

4-18.13 No person shall:

- (a) Use or occupy a benefited parcel when the sewage disposal system that serves the benefited parcel is not in compliance with these regulations, the operation permit or operation permit conditions.
- (b) Use or occupy a premises that is required by law to be served by a sewage disposal system when any portion of the sewage disposal system is located on 2 or more legally recognized parcels of land unless there is compliance with these regulations.

4-19 DIVISIONS OF LAND

When a sewage disposal system or any component of the sewage disposal system is located on a legally recognized parcel of land, no person shall divide that parcel without compliance with these regulations. This requirement shall apply even if the divisions are under common ownership.

ARTICLE 5 PERCOLATION TESTS

5-1 PREPARATION

Bore a minimum of two (2) holes, 4” to 6” in diameter to a depth of 10” below the bottom elevation of the drainstone of the proposed absorption bed or tile field. Carefully scrape all smeared soil from the side of the hole and remove. Place 2” of coarse sand or fine gravel in the bottom of the hole to prevent scouring when filling the hole with water.

5-2 SOAKING

Pour clean water into the hole to a depth of 12”. Use care in pouring to avoid scouring the sides and bottom of the hole.

For sandy soils: Add water as necessary to maintain at least 6’ water depth in the hole. for one (1) hour. If the water level in the hole then drops to the bottom of the hole in the next 30 minutes, proceed with the tests.

For loamy and clay soils: To permit saturation and swelling to occur, fill the hole with clear water to at least 12” above the gravel. Maintain this water level for a minimum of 4 hours and preferably overnight. The percolation rate should be determined 24 hours after water was first added to the hole.

5-3 LEVELING

Place a narrow board flat on the ground, across one edge of the hole, to use as a reference mark for measuring to water surface. If the board moves to the touch, level the land surface, remove grass, or weight the board to assure its immobility. Adjust water level in the hole by adding or removing water until the water depth is 6”.

5-4 MEASUREMENT

Measure the distance from the top of the reference board to the water surface, record the measurement and record the clock time of reading. Make similar measurements, recording the measurement and time, at approximately five (5) minute intervals for a minimum of one (1) hour or longer, until a stabilized percolation rate occurs. Water may be added as required to maintain at least a water depth of 2”; record the depth and time after each refill.

5-5 STABILIZED RATE

The stabilized percolation rate is the number of minutes elapsing during which time the water level in the hole drops one inch, measured at least 60 minutes after the start of the test, in clay textured holes. To determine if the percolation rate has stabilized, compare the drop in water level for successive five (5) minute periods near the end of the hour. If the drop is approximately the same for the last several periods, stabilization has occurred.

5-6 REPORT

The field record, showing all measurements of depth to water, times of measurement, descriptions of saturation, with a statement attesting to the accuracy of the data and signed by the person who conducted the test, together with a soil sample (approximately one (1) pint) taken from the bottom of the hole before conducting the test, comprises the Percolation Test Report.

ARTICLE 6 SOIL AND EXISTING SYSTEM EVALUATIONS

6-1 SOIL EVALUATIONS

Written soil evaluations shall be provided by the Health Agency and shall state that the site is:

6-1.1 Suitable.

6-1.2 Suitable with excavation, fill or a mound system, or

6-1.3 Unsuitable because: (giving reasons).

6-1.4 If a soil evaluation is done, a copy shall be sent to the owner.

6-2 SUITABILITY - DURATION OF PERMIT

If a site has been found suitable by the Health Agency as set forth in Section 6-1.1 or 6-1.2, that site shall not be declared unsuitable by the Health Agency at a later date as grounds for denying a sewage disposal permit unless there have been relevant changes in this code, or the natural or man-made environment at the site.

6-3 EXISTING SYSTEMS

6-3.1 Upon the written request by an owner or the owner's authorized agent, the Health Agency shall provide a written evaluation of an existing septic system.

6-3.2 If requested, a permit authorizing compliance action shall be issued. The Health Agency's evaluation and reply to the applicant shall be made within ten (10) working days.

ARTICLE 7 CONSTRUCTION STANDARDS

7-1 DESIGN CRITERIA

The following specifications as shown in the tables shall be the minimum design criteria and shall apply in determining the minimum size of the sewage disposal systems required for single and two-family residential dwellings. Plans and specifications shall be submitted to the Health Officer. If the plans are adequate according to the provisions of this code and any applicable State law, a permit shall be issued.

7-2 SEPTIC TANKS

Design and construction methods shall be approved by the Health Officer prior to construction or installation. In general, the design specifications found in *Residential Wastewater Systems*, National Association of Home Builders of the United States, 1980, as revised, or the *EPA Design Manual* shall apply as guidelines.

7-2.1 SEPTIC TANK RISERS

From and after the effective date of this code, each septic tank installed shall have a septic tank riser if the top of the septic tank is greater than 18" below finished grade. Risers shall be installed to minimize odors and to prevent unauthorized entry.

7-2.2 SEWAGE FILTERS

From and after the effective date of this code, each septic system installed shall be equipped with a sewage (effluent) filter in the septic tank. If multiple tanks are installed, the filter shall be installed in the last tank.

7-2.3 SEPTIC TANK MARKERS

From and after the effective date of this code, each septic system installed shall have a septic tank marker placed over the effluent inspection port.

7-3 TILE FIELD AND ABSORPTION BEDS

Materials and design shall be in accordance with the specifications in this code.

7-4 TABLES

7-4.1 TABLE 1 - MINIMUM CAPACITIES FOR SEPTIC TANKS

<u>Number of Bedrooms</u>	<u>Minimum Liquid Capacity</u> (Gallons)
2 or less	1,000 gallons
Each additional bedroom beyond 2, add	200 gallons

7-4.2 TABLE 2 - MINIMUM DISTANCE IN FEET

All distances shall be measured horizontally.

<u>FROM</u>	<u>TO SEWERS</u>			
	Tile Field Absorption Bed or Trench	Cast Iron Soil Pipe or Approp. Plastic	Seepage Pit	Holding Tank. Septic Tank
Wells or Suction Lines	50*	10'	50'	50'
Water Pressure Lines (buried)	10'	10'	10'	10'
Property Line	10'	2'	10'	10'
Foundation Wall	10'	-	20'	5'
Drop-off	20'	5'	25'	10'
Lake or Stream** Seasonal High Water Table	100' 3' (Vertical)	10'	100'	50'

* See Section 4-6.5

** Measured from the Ordinary High Water Mark.

7-4.3 TABLE 3 - SIZE AND MINIMUM SPACING FOR TILE FIELD TRENCHES

Width of Trench at Bottom (Inches)	Minimum Spacing of Trenches Center to Center (Feet)
18" to 24"	6.5'
24" to 30"	7.0'
30" to 36"	7.5'

7-4.4 TABLE 4- MINIMUM REQUIRED TRENCH BOTTOM AREA PER BEDROOM FOR TILE FIELDS

Percolation Rate	Soil Type*	Absorption Area ** In Square feet
0 to 5 minutes	Coarse Sand and Gravel	115
6 to 10 minutes	Fine Sand	165
11 to 15 minutes	Loamy Sand	190
16 to 30 minutes	Loam	250
31 to 45 minutes	Sandy Clay	290
46 to 60 minutes	Clay Loam	330

Trenches are assumed to have a depth of 6" of stone below the invert of the distribution pipe. A reduction in calculated trench length is permitted for systems utilizing trenches between 18" and 24" wide to include sidewalls according to the following schedule:

<u>Depth of Stone Below Pipe Invert</u>	<u>Percent Reduction in Calculated Length</u>
8"	10%
10"	15%
12"	20%

The minimum size of any trench or bed shall be based on a two (2) bedroom home.

* As classified in the USDA Soil Survey of Emmet County, Michigan

** Assumes a wastewater production rate of 150 gallons per day per bedroom.

7-4.5 TABLE 5 - TILE FIELD CONSTRUCTION DETAILS

<u>Items</u>	<u>Maximum</u>	<u>Minimum</u>
Number of Lateral Trenches	--	2
Length of Trenches	100'	--
Width of Trenches	36"	18"
Depth of Trenches (bottom) below finish grade	30"	18"
Slope of Tile Lines	6"/100	2"/100

Depth of Aggregate*		
Under Tile	--	6"
Over Tile	--	2"
Under Tile located within root areas of trees	--	12"
Size of Aggregate*	1/2 - 1 1/2"	1/2"
Depth of Straw or Hay Cover	--	3"

* Clean washed stone

7-4.6 TABLE 6- MINIMUM REQUIRED BOTTOM AREA PER BEDROOM FOR ABSORPTION BEDS

<u>Percolation Rate</u>	<u>Soil Type</u>	<u>Absorption Area*</u> <u>In Square Feet</u>
0 to 5 minutes	Coarse Sand and Gravel	230
6 to 10 minutes	Fine Sand	330
11 to 15 minutes	Loamy Sand	380
16 to 30 minutes**	Loam	500**
31 to 45 minutes**	Sandy Clay	580
46 to 60 minutes	Clay Loam	660

The minimum size of any trench bed shall be based on a two (2) bedroom home.

* Assumes a wastewater production rate of 150 gallons per day per bedroom.

** A trench type absorption system or a mound type system may be recommended for this percolation rate and all other soils with longer percolation time.

7-4.7 TABLE 7- ABSORPTION BED CONSTRUCTION DETAILS Same as TABLE 5 except as follows:

<u>Item</u>	<u>Maximum</u>	<u>Minimum</u>
Distance between distribution lines	4'	--
Distance between distribution lines and edge of absorption bed	1 1/2'	6"

7-5 CONSTRUCTION STANDARDS FOR MOUND AND FILLED SITES

7-5.1 SITE PREPARATION

Prior to placing the fill material, the top soil shall be tilled (not rototilled) to provide a good bond with sand fill of the mound. The area shall be free of brush and stumps. The area shall be tilled to eliminate compaction from earth moving equipment.

7-5.2 DIMENSIONS AND MATERIALS

Clean, loamy textured sands, compacted or allowed to settle through one freeze-thaw cycle.

7-5.3 FILL DEPTH

Adequate to maintain 3' of vertical separation from the bottom of the absorption system to the high water table, clay, rock or impervious surface. For creviced rock, see Section 4-6.5.

The lowest 12" of fill shall have a percolation rate slower than 10 minutes per inch.

7-5.4 STABILIZATION

After completion, mound area shall be stabilized with seed and mulch to prevent erosion.

7-5.5 ABSORPTION AREA REQUIRED

The basal area of the mound, that is, the area that interfaces or intersects the natural soil available for infiltration, shall be at least large enough to absorb maximum effluent flows as determined by the percolation rate of the natural soil. On level ground, the base area is the total area bounded by the perimeter of the mound base. On sloping ground, only the area directly under the absorption bed and downslope is included.

7-5.6 DRAINAGE

Alternate drainage must be provided where fill or an elevated mound may interfere with existing on site surface drainage.

7-5.7 CONSTRUCTION DETAILS

See Attachment A for a typical plan for an elevated absorption bed.

ARTICLE 8 WELLS

8-1 WATER SUPPLIES

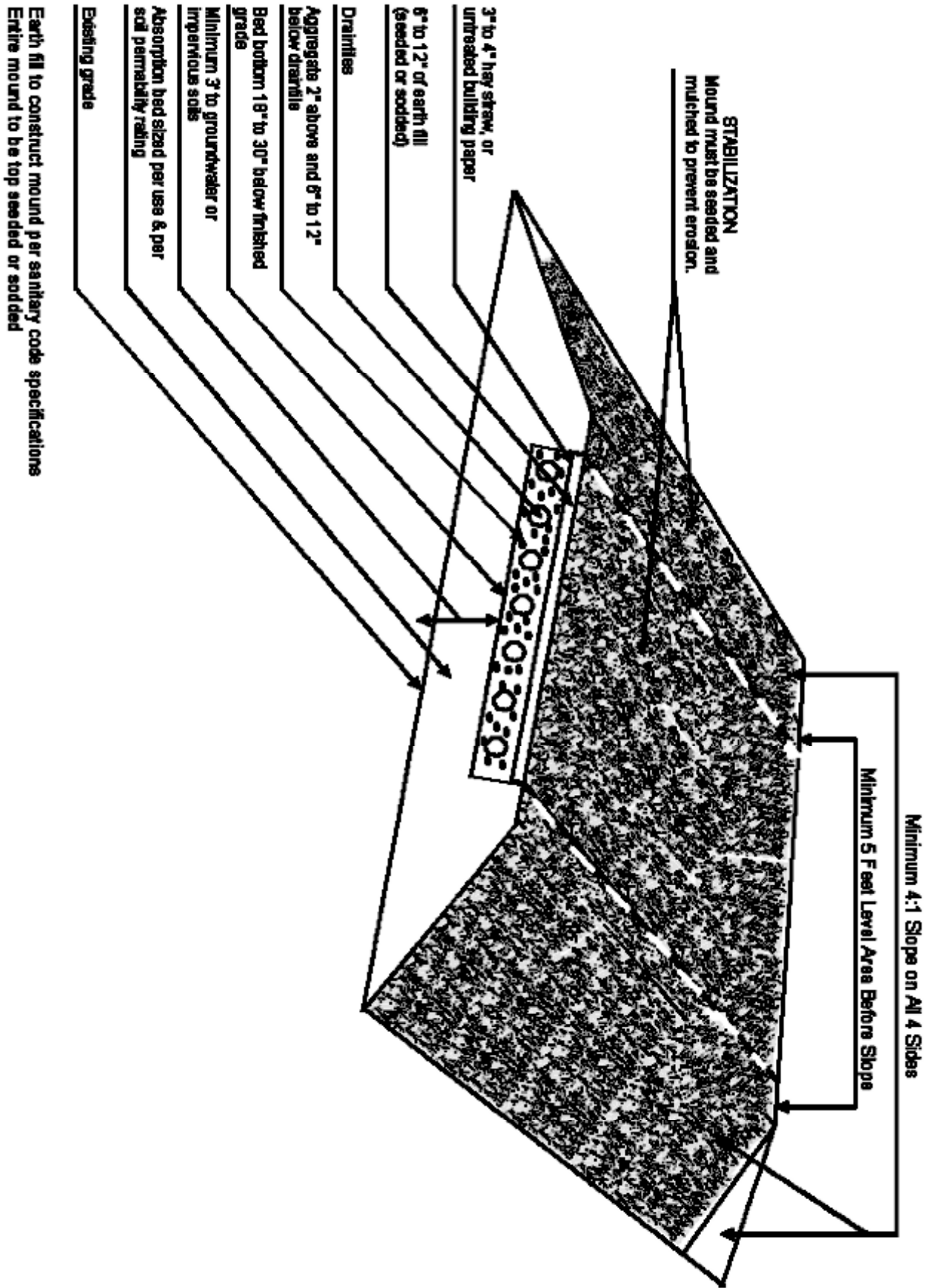
All water supplies shall be located, constructed and maintained in accordance with the specifications outlined in the Michigan Safe Drinking Water Act, 1976 PA 399, as amended, and Part 127 of 1978 PA 368, as amended.

8-2 PERMIT REQUIRED

From and after the effective date of this code, it shall be unlawful for any person to install a water well within Emmet County unless a permit has been issued by the Health Officer or the Health Officer's authorized agent.

8-3 PERMIT APPLICATION; FEE

An application signed by the applicant for a permit to install a water well shall be required for any installation. A plan of the proposed water well installation, with such data as the Health Officer may require, shall be submitted on forms supplied by the Health Agency. A permit fee shall be required as established by the Health Agency.



8-4 CRITERIA FOR PERMIT APPROVAL

The Health Officer shall deny a permit where one or more of the following conditions exists:

- 8-4.1 An approved community water system is available.
- 8-4.2 The property served lacks sufficient area to achieve the minimum isolation distances required in Table 8 and by 1976 PA 399, as amended, and Part 127 of 1978 PA 368, as amended.
- 8-4.3 The site is subject to ponding or flooding.
- 8-4.4 The minimum depth is less than that prescribed by 1976 PA 399, as amended, and Part 127 of 1978 PA 368, as amended.

8-5 PERMIT ISSUANCE

If the proposed installation meets the requirements of this code, a permit shall be issued.

8-6 INSPECTIONS

The Health Officer shall make such inspections at the site as he or she deems necessary.

8-7 DEVIATION FROM TERMS OF PERMIT

Failure to construct according to the terms of the permit shall be deemed a violation of this code which may result in revocation of the permit.

8-8 ISOLATION DISTANCES

A private residential well shall be located not closer than the following horizontal distances from the source of pollution:

8-8.1 TABLE 8- MINIMUM ISOLATION DISTANCES

<u>Pollution Source</u>	<u>Minimum Distance</u>
Septic tank	50'
Absorption Field	50'
Building Sewer of cast iron, Schedule 40 plastic or equivalent	10'
Building Sewer of other material	50'
Other sources	50

Other wells shall be isolated in accordance with State statutes and administrative regulations and rules.

8-9 WELL RECORDS

A well drilling contractor or individual who installs his or her own well shall complete a well record in accordance with Part 127 of 1978 PA 368, as amended, containing such information as may be required on the form furnished by the Health Officer. The well record shall be completed not later than sixty (60) days after the completion of the well, and one copy shall be submitted to the Health Officer and one copy retained by the contractor or individual.

8-10 CONTAMINATED WATER SUPPLIES

- 8-10.1 When at least two (2) consecutive samples of water from an existing well show coliform organisms present, such water supplies shall be considered contaminated. Consecutive samples shall mean those taken by the Health Officer at least seven (7) days apart.
- 8-10.2 Contaminated water supplies shall be repaired, or replaced, to meet the requirements of this code within a time period specified by the Health Officer.
- 8-10.3 Contaminated water supplies which, in the judgment of the Health Officer, represent an immediate health hazard shall be posted with suitable signs at each outlet, or the outlet shall be inoperable.

8-11 ABANDONMENT OF WELLS

A well which is no longer in service shall be abandoned in accordance with procedures outlined in Part 127 of 1978 PA 368, as amended, and administrative regulations and rules.

8-12 PUMP AND WELL ROOMS

A room housing pumping equipment or the top of a well casing shall be constructed above the established ground surface and shall permit access to the pump for maintenance and repair, or may be located below grade if the containing room is located in or attached to an approved basement. A below grade installation may be permitted only if approved in writing by the Health Officer.

ARTICLE 9 VARIANCES

9-1 SPECIAL CONDITIONS

A variance from the substantive provisions of this Code may be granted by the Board of Appeals if the applicant shows by competent, material and substantial evidence that all of the following special conditions have been met:

- 9-1 .1 The need for the requested variance is due to unique circumstances or physical conditions of the subject property, and is not due to personal or economic hardship of the property owner.
- 9-1.2 The need for the requested variance is not the result of actions of the property owner or previous property owner(s) which occurred after the enactment of the Code provision from which the variance is sought.

9-1.3 The requested variance is the minimum variance necessary to provide substantial relief to the property owner, and is calculated to protect the groundwater and other natural resources on a long-term basis and to provide substantial protection to neighboring properties.

9-2 ADVANCED TREATMENT SYSTEMS (ATS)

Technological improvements in on-site wastewater treatment and disposal have made it possible to have treatment systems that are alternatives to conventional sewage disposal systems and are also consistent with the protection of the public health and environmental resources. When properly designed and maintained, an advanced treatment system (ATS) can provide better environmental protection than conventional treatment systems. These advanced treatment systems are particularly advantageous when the criteria for a conventional drain field system cannot be met. To function effectively an ATS must be properly designed, constructed and maintained. To help ensure that an ATS functions properly, the Health Agency requires that a **construction permit** be obtained for the design and installation of an ATS; an **operation permit** be obtained for the operation of an ATS; and a **maintenance contract** exist for an ATS.

Definition: As used in this section, the following term shall have the following meaning:

“Advanced Treatment System (ATS)” means an on-site wastewater system that provides for the collection, treatment and uniform disposal of wastewater using advanced technologies to pre-treat wastewater effluent prior to final disposal.

9-2.1 An ATS may be required on sites when a new or replacement conventional treatment system cannot meet the criteria for the issuance of a permit for a conventional treatment system. A property owner may request permits for an ATS even if the proposed site would be suitable for a conventional treatment system. No premises may be equipped with an ATS without a **construction permit** and no ATS may be used in conjunction with a premises without an **operation permit**.

9-2.2 A completed application for a **construction permit** for an ATS shall consist of a Health Agency-approved application form which contains all specified information required in the application, detailed engineered plans signed by and bearing the seal of a licensed professional engineer and the application fee. Any site modifications are to be shown in detail on the engineered plans. If the applicant does not own a fee simple interest in the land, a consent form, approved by the Health Agency must be signed by the owner of the fee simple interest. The Health Agency shall set the application fee. An application that is not complete shall not be approved.

9-2.3 A **construction permit** shall be issued by the Health Agency if the applicant has provided competent, material and substantial evidence which allows the Health Agency to find that all of the following standards have been met and all of the following information has been provided:

- (a) The disposal location for effluent from an ATS shall be located a minimum of 100' from a body of water. Where the ordinary high water mark of the

body of water can or has been determined, the effluent disposal location shall be measured from that point.

- (b) The ATS is capable of continuously producing an effluent with:
 - (1) For discharges further than 150 feet from a water body:
 - (i) **Biological Oxygen Demand (BOD5)** less than or equal to **30mg/L**.
 - (ii) **Total Suspended Solids (TSS)** less than or equal to **30 mg/L**.
 - (iii) **Total Inorganic Nitrogen (TIN)** less than or equal to **30 mg/L**.
 - (2) For discharges within 150 feet of a water body:
 - (i) **Biological Oxygen Demand (BOD5)** less than or equal to **30mg/L**.
 - (ii) **Total Suspended Solids (TSS)** less than or equal to **30 mg/L**.
 - (iii) **Total Inorganic Nitrogen (TIN)** less than or equal to **30 mg/L**.
 - (iv.) **Total Phosphorus** less than or equal to **5 mg/L**.
- (c) The site of the proposed ATS has a minimum of 18” of naturally occurring permeable soils below natural ground surface and does not show evidence of high groundwater table conditions within 12” of the natural ground surface. The natural ground surface is formed by the forces of nature and not through the activities of man.
- (d) A wetland determination may be required prior to issuance of the construction permit.
- (e) The infiltrative surface of the final disposal media receiving pre-treated effluent must be separated from the high groundwater table, impermeable soil layer or other restrictive strata by no less than 36”..
- (f) The proposed system must also meet all other requirements, standards and criteria for permit approval as outlined in Article 4, SEWAGE DISPOSAL, and Article 7, CONSTRUCTION STANDARDS.
- (g) The applicant shall provide the Health Agency with the maintenance specifications of the manufacturer and the maintenance specifications of the engineer for the entire ATS.
- (h) The applicant shall provide the Health Agency with a notarized copy of a Notice of Advanced Treatment System that has been recorded with the Emmet County Register of Deeds and which contains the page and liber numbers of the recordation.

9-2.4 A **maintenance contract** shall be submitted to this Health Agency for approval and is

required prior to issuance of the operation permit. At a minimum the maintenance contract shall provide that:

- (a) The ATS shall be inspected and the effluent sampled not less than twice annually by a maintenance contractor who shall be a State of Michigan Licensed Professional Engineer, State of Michigan or nationally registered Environmental Sanitarian or a certified ATS inspector. The maintenance provider's license, registration or certification must be current and in good standing.
- (b) The maintenance contractor shall provide the Health Agency with a proposed operation and maintenance schedule for review.
- (c) The first operation and maintenance inspection shall be conducted within 60 days of ATS start-up.
- (d) The inspection(s) and any regular maintenance required by the manufacturer shall be prepaid for 3 years.
- (e) The annual inspection shall determine and the inspection report shall describe whether the ATS:
 - (i) Is functioning in compliance with the standards of section 9-2.3 and include all analytical testing which has been done to make this determination;
 - (ii) Continues to be in compliance with the maintenance specifications of the manufacturer;
 - (iii) Continues to be in compliance with the maintenance specifications of the engineer for the ATS;
 - (iv) Continues to be in compliance with conditions imposed by all permits issued by the Health Agency; and
 - (v) Is performing in the manner in which the ATS was approved.
- (f) The inspection report must include a description of all maintenance performed on the ATS or any components since the last inspection report.
- (g) The maintenance contract must be assignable to subsequent owners of the premises which is equipped with the ATS.
- (h) The maintenance contractor must acknowledge the obligation to notify the Health Agency of a discontinuation of services as required by section 9-2.5.
- (i) An inspection report shall be submitted to the Health Agency and the property owner within 30 days of any inspections required by the Health

Agency.

- (j) The Health Agency, as deemed necessary, may require additional inspections and inspection parameters.

9-2.5 The property owner and maintenance contractor shall notify the Health Agency within 30 days if for any reason the services required by the maintenance contract are no longer being performed.

9-2.6 An **operation permit** must be obtained from the Health Agency as a requirement for a premises to be equipped with or used in conjunction with an ATS. The operation permit shall allow the use of the ATS for a maximum of 3 years from the time of permit issuance. A new operation permit must be obtained every 3 years for as long as the ATS is used in conjunction with the premises. A completed application for an operation permit for an ATS shall consist of a Health Agency-approved application form which contains all specified information and sufficient information so that the Health Agency can make a determination regarding whether the standards for the issuance of the operation permit have been met. The Health Agency shall set the operation permit fee. An application that is not complete shall not be approved.

9-2.7 An **operation permit** shall be issued by the Health Agency if the applicant has provided competent, material and substantial evidence which allows the Health Agency to find that all of the following standards have been met:

- (a) The ATS is functioning in compliance with the standards of section 9-2.3 based on analytical review of the ATS and its effluent;
- (b) The ATS continues to be in compliance with the maintenance specifications of the manufacturer;
- (c) The ATS continues to be in compliance with the operation and maintenance specifications established by the design engineer;
- (d) The property owner has a valid maintenance contract in effect as required by this code; and
- (e) The ATS and property owner continue to be in compliance with conditions of any permits issued by the Health Agency and the Michigan Public Health Code.

An operation permit shall be valid only as long as the ATS remains in compliance with the requirements and restrictions stated on the construction and operation permits as well and performance standards in section 9-2.3.

9-2.8 If the ATS fails to meet the standards in Section 9-2.3 any provision of the maintenance contract or a condition of the construction permit or operation permit, the owner shall immediately notify the Health Officer of the failure and, at his or her sole expense, immediately take action to identify and correct the cause(s) of the failure. Corrections and additional effluent sampling shall be conducted to demonstrate compliance with Section 9-

2.3 without endangerment to public health or the environment.

Where the cause of failure cannot be corrected within a one-month period, the owner shall enter into an agreement approved by the Health Officer to provide for the proper disposal of septage generated on the property. The Health Officer shall approve such an agreement if it provides, in a timely manner, for the lawful disposal of septage by a State of Michigan licensed septage hauler until such time as the ATS can operate as required by the operation permit.

- 9-2.9 If the property owner fails to apply for an operation permit, or fails to submit the proper operation and maintenance documentation to the Health Agency or fails to correct system deficiencies as required to meet performance standards, the system will be deemed a public nuisance and shall be in violation of this code.
- 9-2.10 The operation permit shall be transferable. Within 60 days of a change of ownership, the new owner shall apply to the Health Agency for approval of a transfer of the operation permit, which approval shall not be unreasonably withheld.
- 9-2.11 Operation permits shall expire on December 31 of the third year after issuance. Completed applications for renewal shall be submitted to the Health Agency no later than October of the third year.
- 9-2.12 The Health Agency shall have the right to revoke an operation permit of an ATS if it finds that one or more of the following occurs:
- (a) An operation report is not submitted as required.
 - (b) The ATS fails to meet the standards in section 9-2.3.
 - (c) Any of the conditions of the operation permit are not met.
 - (d) The property owner fails to comply with any corrective orders of the Health Agency.

The Health Agency shall provide the permit holder with written notice of the basis for the revocation and the opportunity to meet with a representative of the Health Agency at which time the permit holder shall have the opportunity to show by a preponderance of the evidence that there is no basis for the revocation. If the permit holder meets with the Health Agency, but is dissatisfied with the decision of the Health Agency, the permit holder may request review of that decision to the Administrator (Director of the Health Agency). The request must be in writing, must contain the reasons why the decision of the Health Agency did not comply with the code and must be filed with the Health Agency within 20 days after the date of the decision of the Health Agency that results from the meeting between the permit holder and the Health Agency. In addition to a request for review to the Administrator, or in the alternative, the permit holder may file an appeal of the revocation under Article 10, APPEALS.

ARTICLE 10 APPEALS

10-1 BOARD OF APPEALS; MEMBERSHIP

The Emmet County Sanitary Code Board of Appeals shall consist of the following: one (1) member of the Emmet County Board of Commissioners appointed by that body; the township supervisor or alternate member of the township board appointed by the township where the subject property is located; and three (3) persons from the public at large appointed by the Emmet County Board of Commissioners. Members shall be appointed to serve one (1) year terms. If any member of the Board of Appeals is disqualified from hearing an appeal because of a conflict of interest, or for any other reason, the appointing body may appoint a substitute member to sit for that hearing. The appointing body, upon notice and hearing, may remove a member of the Board of Appeals for misfeasance, malfeasance or nonfeasance in office. Nonfeasance in office shall be presumed if a member is absent from three (3) consecutive meetings of the Board of Appeals. Upon removal, the appointing body shall appoint a replacement member to fill out the unexpired term of the member removed.

10-2 COMPENSATION

The compensation for each member shall be that sum established by the Emmet County Board of Commissioners.

10-3 JURISDICTION

The Board of Appeals shall have the power to decide appeals from decisions of the Health Officer, and/or to determine whether any variance from the substantive requirements of this Code should be granted. If an appeal has been timely filed, the appeal shall be heard *de novo* by the Board of Appeals, and to that end the Board of Appeals shall have all of the powers of the Health Officer. The term “de nova” means that the Board of Appeals, in reviewing a decision of the Health Officer, may substitute its assessment for the findings, conclusion, and decision of the Health Officer.

10-4 APPEAL PROCEDURES

- 10-4.1 Each appeal shall be in writing stating the basis of the appeal, and shall be filed in duplicate with the Health Agency.
- 10-4.2 An appeal must be filed within sixty (60) days after delivery of the written notice of the decision from which the appeal is made. Delivery of the notice shall be effective upon receipt of the notice by certified mail, return receipt requested.
- 10-4.3 Within five (5) working days following receipt by the Health Agency of the appeal and applicable fee, the Health Agency shall transmit to the Board of Appeals a copy of the entire file pertaining to the decision that is the subject of the appeal.

10-5 HEARINGS

The Board of Appeals shall set a reasonable time, not to exceed thirty (30) days after receipt of the appeal by the Board of Appeals, for the hearing and shall give notice of the hearing to

interested parties as provided in this Code. The 30-day limit may be extended by either party for good cause. In hearing the appeal, the Board of Appeals shall receive and consider evidence and data relevant to the case, and shall issue its written decision, including specific findings of fact, within twenty-one (21) days.

10-6 DECISIONS

The Board of Appeals may affirm or reverse, wholly or in part, or may modify a decision of the Health Officer. With an affirmative decision, the Board of Appeals may impose reasonable conditions. Decisions shall be made by a majority of a quorum of the Board of Appeals. Decisions of the Board of Appeals shall be final, subject to review by the circuit court as provided by law. An appeal must be filed in the circuit court within sixty (60) days after the date of the final decision of the Board of Appeals.

10-7 MEETINGS; RULES OF PROCEDURE

The Board of Appeals shall meet at such places and at such times as the Board may determine. The Board of Appeals shall adopt rules of procedure, and shall keep a record of its proceedings. A quorum of any three (3) or more members of the Board of Appeals present shall be necessary to conduct business. All meetings of the Board of Appeals shall be conducted in accordance with the Open Meetings Act, 1976 PA 267, as amended.

10-8 NOTICES

The Board of Appeals shall send notice to all owners of property adjoining the property that is the subject of the appeal. Such notice shall be sent by first class mail to the last known address of each owner of record. In addition, the Board of Appeals shall cause to be published in a newspaper of general circulation in Emmet County a notice of hearing at least ten (10) days prior to the hearing, and shall post said notice in accordance with the Open Meetings Act, 1976 PA 267, as amended.

ARTICLE 11 HEALTH OFFICER

11-1 DUTIES

The Health Officer is a public servant. He or she is expected to be courteous, consistent and considerate of the needs and problems of the public. It is part of his or her function not only to protect the public health, but to assist land owners to use their properties for the purpose permitted by zoning and other laws. The Health Officer will be held to a high standard of integrity and truthfulness. He or she is expected to perform his or her job without discrimination for or against any applicant because of personal reasons.

11-2 POLICIES

Any policies of the Northwest Michigan Community Health Agency not stated in this code which have an effect on permitting sewage disposal systems must be adopted as amendments or supplements by the methods set forth in Section 1-9 or they shall have no effect.

ARTICLE 12 PUBLIC NUISANCES

12-1 NUISANCES

It shall be the duty of said Health Officer to examine into all nuisances, sources of filth and causes of sickness that may, in its/his opinion, be injurious to the health of the inhabitants within Emmet County.

Nothing stated in this code shall be construed to limit the power of the Health Officer to order the immediate and complete abatement of a public nuisance or menace to the public health as provided by MCL 333.2451; MSA 14.15(2451), MCL 333.2453; MSA 14.15(2453) and/or MCL 333.2455; MSA 14.15(2455).

12-2 CONDEMNATION OF EXISTING INSTALLATIONS

The Health Officer may condemn an existing sewage disposal system 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 a lake, river, storm sewer or stream, or where the seepage of effluent may endanger a public or private water supply or where a public nuisance is created by a system improperly constructed or maintained. An individual sewage disposal system so condemned shall be repaired, rebuilt or replaced by a system constructed according to provisions of this code within a period of time specified by the Health Officer. The provisions of this Section shall be enforced pursuant to MCL 333.2451; MSA 14.15(2451), MCL 333.2453; MSA 14.15(2453) and/or MCL 333.2455; MSA 14.15(2455).

ARTICLE 13 INTERPRETATION; SEVERABILITY

13-1 INTERPRETATION

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

13-2 SEVERABILITY

The invalidity of any clause, sentence, paragraph or part of this code shall not affect the validity of the remaining parts of this code.

ARTICLE 14 PENALTIES

14-1 VIOLATIONS

A person who violates any provision of this code is responsible for a civil infraction as provided in MCL 333.2461. A minimum fine of \$200.00 plus damages, attorney fees and costs allowed by law shall be imposed for each violation. Each day that a violation is permitted to continue shall constitute a separate infraction.

ARTICLE 15 REPEAL

15-1 REPEAL

All codes or parts of codes inconsistent with this amendment are hereby repealed.

Adopted and effective: August 23, 1983
Amended and effective: November 5, 1988
Amended and effective: April 29, 2002
Amended and effective: February 25, 2007