

## **ARTICLE 1 – TITLE, PURPOSE, AUTHORITY AND JURISDICTION**

### **SECTION 1.1 – Title**

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

### **SECTION 1.2 – Purpose**

These Regulations are adopted to protect the quality of water resources, on-site water supplies and the natural environment and to protect the public health by providing an evaluation and maintenance program for on-site sewage systems and on-site water supply systems in Barry and Eaton County by: (1) regulating the sale or transfer of parcels containing on-site sewage systems or on-site water supply systems; (2) regulating on-site sewage system and on-site water supply system evaluations; (3) regulating alternative on-site sewage system evaluations and maintenance and (4) effecting compliance with the provisions of the Public Health Code. It is not the intent of this Regulation to cause existing functional systems, which do not meet current construction standards, and in the case of on-site water supply systems, which are not subject to contamination, to be brought into compliance with such standards.

### **SECTION 1.3 – Authority**

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

### **SECTION 1.4 – Jurisdiction**

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

## **ARTICLE II – DEFINITIONS**

### **SECTION 2.1 – Definitions**

**Abandoned well** – Any of the following: a) a well, which has its use permanently, discontinued, b.) a well which is in such disrepair that its continued use for the purpose of obtaining groundwater is impractical, c.) a well which has been left uncompleted, d.) a well which is a threat to groundwater resources, e.) a well which is or may be a health or safety hazard.

**Absorption system**- That part of a sewage system in which septic tank effluent is distributed to a subsurface trench, bed or other approved means that allows the effluent to be absorbed and treated by the surrounding soil; also called drainfield,

drainbed, disposal field, tile field, disposal bed or other system approved by the Health Department.

**Alternative Sewage System Evaluation** - The process of determining the condition and state of acceptability of the system and performing all necessary maintenance to said system. This process may include but is not limited to; observations, sample collection, information gathering, the exercising of judgments, the preparation of documentation including a summary of findings and submittal of those findings to the Health Department.

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

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

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

**Certified Evaluator** – a person who has satisfactorily completed training courses in both on-site sewage systems and on-site water supplies and/or has demonstrated knowledge and expertise of a subject area through registrations or certifications as approved by the Health Department.

**Certified Alternative System Evaluator** – a person who has satisfactorily completed advanced level training course's in alternative on-site sewage systems and has demonstrated knowledge and expertise of a subject area through registrations or certifications as approved by the Health Department.

**Community System** – a sewage system serving more than one dwelling not under the same ownership (other than municipality owned systems) and generating more than one thousand gallons per day and less than ten thousand gallons per day and in accordance with the Michigan Criteria for Subsurface Sewage Disposal.

**Complete Evaluation** - Documentation of an inspection that includes all of the required information as determined by the Health Department.

**Dosing Chamber** – A water-tight tank or receptacle used for the purpose of retaining the overflow or effluent from a septic tank, pending its automatic discharge to a selected point, typically an absorption system.

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

**Failure of On-site Sewage System** – A substantial non-conforming system; the backup of sanitary sewage into the premise or habitable building; direct discharge of sanitary sewage and/or effluent to a water course, surface drain, field tile or the ground surface; discharge of effluent from the sewage system to a storm sewer, field tile or surface drain; presence of liquid in the septic tank above the invert of the septic tank outlet; presence of liquid in the septic tank below the invert of the outlet (as associated with a leaking septic tank); failure or dilapidation of the physical septic tank structure or other system components; or discharge of sanitary sewage from the structure which does not reach the absorption system.

**Failure of On-site Water Supply System** – Unsafe water sample and/or water sample not meeting the drinking water standards as established by the Environmental Protection Agency, the presence of an abandoned well, substantial non-conformance with water well construction requirements or substantial non-conformance with water well isolation from contamination source requirements.

**Habitable Building** – Any structure or part thereof, or other place where human beings reside, are employed, or congregate, or any structure adopted for such purposes.

**Health Department** – The Barry-Eaton District Health Department.

**Health Officer** - The Administrative Officer who is in charge of the Barry-Eaton District Health Department or his/her authorized designee.

**Municipality** - Shall mean any incorporated city, village, or township within Barry and Eaton Counties.

**On-site Sewage System** – A device or method, including all requisite treatment tanks, piping, pumps, vents, and soil absorption areas, or privies used to treat and/or dispose of all sewage emanating from a home, business, or industrial establishment that is located entirely on the property occupied by said sewage systems including conventional and alternative systems.

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

**On-site Subsurface Sewage System, Alternative** – A system constructed in accordance with a plan prepared by a professional currently licensed under Act 299, P.A. 1980, Act 368, P.A. 1978, Part 184, or other qualified professional approved by the Health Department, which employs design features, processes, construction or operational methods other than those which apply to a conventional on-site subsurface sewage system or to a low pressure dose mound.

**On-site Water Supply** - A system of pipes and structures through which water is obtained, including but not limited to: the source of the water such as wells, or

hauled water storage tanks, pumping and treatment equipment, storage tanks, pipes and appurtenances used or intended to furnish water for potable use.

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

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

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

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

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

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

**Public Water Supply** - A water supply which provides water for drinking or household purposes to persons other than the supplier of water, as defined in MCL 325.1002.

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

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

**Regulations** – Regulations governing on-site sewage systems and on-site water supply system evaluation and maintenance in Barry and Eaton County, Michigan.

**Sanitary Sewage** – All domestic liquid waste from laundry, bathing, cooking, cleaning, sink waste, therapeutic bathing, human excreta, dishwasher and garbage disposals. Sanitary sewage shall not include waste or water from water softening and treatment devices, roof runoff, footing or storm drainage and waste or water from industrial and commercial processes.

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

**Septic Tank** – A sound, watertight, covered receptacle designed and constructed to receive the discharge of sewage, separate solids from the liquid, digest organic matter and store digested solids through a period of detention and allow the clarified liquids to discharge to an absorption system.

**Substantial Non-conformance, Sewage System** – Condition(s) identified during a sewage system evaluation which meet one or more of the following; an unrecognizable sewage system, method or thing that varies so significantly from customary or recognized methods that its continued use cannot be acknowledged as meeting a minimum standard (does not meet the conventional or alternative definition).

**Substantial Non-conformance, Water Supply System** – An on-site water supply system that is not capable of meeting the intended use, a method or thing that varies so significantly from customary and recognized construction standards that its continued use cannot be acknowledged as meeting a minimum standard.

**Transfer Evaluation** - The process of determining, in relation to the sale or transfer of a parcel containing an on-site sewage and/or water supply system, the condition and state of acceptability of the system(s). This process includes observations, sample collection, information gathering, the exercising of judgments, and preparation of a summary of findings.

**Transfer Authorization** – a report or other documentation created by the Health Department describing the condition of the on-site sewage system and/or the on-site water supply and approving the sale or transfer in compliance with this regulation.

## **ARTICLE III – GENERAL PROVISIONS**

### **SECTION 3.1 – General Provisions**

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

### **SECTION 3.2 – Restrictions on Sale or Transfer of a Parcel Containing an On-Site Sewage System or an On-Site Water Supply**

Subject to the provisions of Section 5.3, there shall be no sale or transfer of a parcel containing an on-site sewage system (conventional or alternative) and/or on-site water supply system until all of the following have occurred:

- A. The documentation of a transfer evaluation by a registered evaluator has been submitted to the Health Department.
- B. At the time of the transfer evaluation, the Health Department has determined that the condition or operation of the system is not in a state of failure or that any necessary system maintenance or remediation has been completed or assured and approved by the Health Department.
- C. The Health Department has issued a transfer authorization for sale or transfer of the parcel.

**SECTION 3.3 – Annual Evaluation of Alternative Sewage Systems and Community Systems**

Beginning January 1, 2008 all alternative sewage systems and community systems in Barry and Eaton County shall have annual evaluation of the operation of the system and system maintenance completed by a Registered Alternative System Evaluator and a report submitted to the health department. The findings of the operation and maintenance evaluation, including a summary of the maintenance performed, shall be submitted to the Health Department on approved forms within thirty (30) days of completion of the evaluation.

**ARTICLE IV – POWERS AND DUTIES OF THE HEALTH OFFICER**

**SECTION 4.1 - General Provisions**

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

**SECTION 4.2 - Power to Establish Policy, Criteria and Standards**

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

**ARTICLE V – TYPES OF EVALUATIONS**

**SECTION 5.1 – Transfer Evaluations**

A transfer evaluation shall consist of visual and olfactory observations of the on-site sewage system, use conditions, information gathering, pumping of septage at a frequency established by the Health Department, inspection of the condition of the septic tank, absorption system, pumps, filters and other important features of the sewage system; visual observation and water quality sampling of an on-site water supply system; visual observation of any abandoned well(s), and the preparation of a

summary of the findings including use conditions. Water samples shall be collected and analyzed at a laboratory certified by the Michigan Department of Environmental Quality to determine the presence of coliform bacteria, nitrate concentration, and other contaminants as determined by the Health Department. Transfer evaluation authorizations shall be valid for one year from the date of evaluation.

## **SECTION 5.2 – Alternative Sewage System & Community System Evaluations**

An alternative sewage system and/or community system evaluation shall consist of visual and olfactory observations of the on-site sewage system, use conditions, information gathering, pumping of septage at a frequency established by the Health Department, inspection of the condition of the septic tank, absorption system, pumps, filters, alarms, control panels, pre-treatment devices and other important features of the sewage system. Alternative system evaluations may also require laboratory samples and analysis to identify and/or confirm if the system is functioning as intended. Alternative system evaluations shall include the completion of all necessary and routine maintenance of the system as determined by the Health Department. The person, firm or entity performing such maintenance shall be authorized or licensed, where required by state statute and/or product manufacturer to perform said maintenance.

## **SECTION 5.3 – Exemptions**

A transfer evaluation is not required by Article III. Section 3.2:

- A. If as a condition of sale or transfer, and upon written demonstration to the Health Department, the structure is to be connected to an available public sanitary sewer and/or public water supply within six months of the sale or transfer.
- B. During the first three years after final approval by the Health Department of a permitted and newly constructed on-site sewage system and/or permitted and newly constructed on-site water supply system. The use of the system(s) shall be consistent with the intended use and conditions at time of permit and final approval. The system shall not be in a state of failure, altered after final approval from its original physically constructed form, or located on a parcel separate from the premise, which the system(s) serve. The owner shall provide written documentation to the Health Department stating the conditions for exemption.
- C. If a transfer evaluation occurred within twelve months of the date of sale or transfer, and the pertinent transfer evaluation summary of findings was filed with the Health Department and transfer authorization was issued by the Health Department
- D. When a mortgage or other payment obligation is refinanced.
- E. If the owner or authorized agent provides written documentation to the Health Department that the premises shall be demolished and shall not be occupied after the property transfer.
- F. Transfers from a husband or wife or husband and wife creating or disjoining a tenancy by the entireties in the grantor or the grantor and his or her spouse.

- G. Judgments or orders of courts of record making or ordering transfers, except where a specific monetary consideration is specified or ordered by the court.
- H. Transfers that create a joint tenancy between two or more persons where at least one of the persons already owned the property.
- I. Land contract transfers that were in effect prior to the implementation of this regulation.
- J. Alternative sewage system sites and community systems with an approved evaluation in accordance with Section 5.2 and Section 7.3.

## **ARTICLE VI - EVALUATION REPORTS**

### **SECTION 6.1 – Transfer Evaluation and Alternative Sewage System Evaluation**

#### **Summary of Findings (Documentation)**

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

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

Evaluation documentation shall include, but is not limited to:

- A. The address of the site.
- B. The parcel identification number.
- C. The name of the owner.
- D. The location of the system(s).
- E. A description of the current operational or functional status of the system(s).
- F. Identification of any necessary repairs or replacement of all or portions of the system(s).
- G. Identification and location of any abandoned wells or multiple on-site wells on the parcel. (This item is not required for alternative system evaluations per Sec. 5.2.)
- H. The results of all coliform bacteria and nitrate drinking water analysis, and/or other water quality parameters as required by the Health Department. (This item is not required for alternative system evaluations per Sec. 5.2.)
- I. Other relevant or unusual observations related to the system(s).
- J. Educational materials about system maintenance that have been approved by the Health Department.



- K. A detailed site plan illustrating features of the parcel and in accordance with the requirements of the Health Department.
- L. Evaluation documentation shall be completed on forms approved by Health Department.

## **ARTICLE VII – EVALUATION FREQUENCY**

### **SECTION 7.1 – Transfer Evaluations**

All on-site sewage systems and/or on-site water supply systems shall have a transfer evaluation prior to the sale or transfer of the parcel, except as provided in Sections 5.3 and/or 7.2 (B)

### **SECTION 7.2 – Vacant Premises/Winter Conditions**

- A. If the parcel or structure served by a system(s) is vacant for more than 10 days prior to the transfer evaluation, the transfer evaluation shall be performed. If approved, the transfer authorization shall include statements indicating the limitations of an evaluation when a habitable dwelling and/or premise is not occupied and the system(s) is not under normal use.
- B. If winter weather conditions preclude completing the transfer evaluation specified in Section 5.1, the transfer evaluation may be delayed at the owner's written request and with the concurrence of the Health Department.

### **SECTION 7.3 – Alternative Sewage System & Community System Evaluations**

All alternative sewage systems and community systems shall have an annual evaluation and maintenance performed by a certified alternative system evaluator registered with the Health Department. The evaluation shall take place during the calendar year and shall not have been preceded with an evaluation within the previous six months.

### **SECTION 7.4 - Other Evaluations**

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

- A. For non-residential structures;
- B. For unique, unusual or alternative sewage systems; or
- C. When the system is determined by the Health Department to be inadequate for the current use or size of the premise which it serves.

## **ARTICLE VIII – EVALUATOR REQUIREMENTS**

### **SECTION 8.1 Registration and Certification**

All evaluators performing evaluations under this Regulation must be registered with the Health Department and certified before undertaking any evaluations. All qualified applicants must file an application with the Health Department, pay the Health Department registration fee annually and satisfactorily complete training course(s) approved by the Health Department. Registrations shall expire December 31 of each year. Prospective evaluators must demonstrate knowledge of construction practices, operational standards as well as the causes and indicators of on-site sewage systems and/or on-site water supply failures. Registered evaluators shall maintain general liability insurance and provide proof of general liability insurance to the Health Department. No transfer evaluation summary of findings/documentation shall be accepted from individuals not registered by the Health Department.

### **SECTION 8.2 Revocation of Registration**

The Health Officer may revoke any certified evaluator's registration under one or more of the following circumstances:

- A. The individual fails to comply with the Regulation;
- B. The Health Officer determines that the individual is incompetent;
- C. The individual is unable to properly perform an evaluation of an on-site sewage system and/or on-site water supply system;
- D. The individual is negligent in the discharge of his/her duties.
- E. The individual submits false or misleading information;
- F. Significant information is missing from the transfer evaluation documentation and/or is not provided within three (3) business days after being requested by the Health Department; or,
- G. The individual does not maintain the required certification as required by this Regulation.
- H. The individual is found to have a conflict of interest as identified in Article XVIII.

The Health Department shall give written notice to a Registered Evaluator before revocation by the Health Officer. The Registered Evaluator shall be given an opportunity at an informal meeting with the Health Department and/or the Health Officer to demonstrate why his/her registration should not be revoked. Any Registered Evaluator whose registration is revoked may appeal that decision by following the procedure in Article XI of this Regulation.

If a Registered Evaluator's registration is revoked, re-registration shall be contingent upon completing the requirements established by the Health Department.

## **ARTICLE IX – FAILURES**

### **SECTION 9.1 – Notice**

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

### **SECTION 9.2 - Conformance with Permit**

If a failing system cannot be connected to an available public sewer or available public water, any remediation of the failing or potentially failing system must be in conformance with a system permit issued by the Health Department. Proper closure of abandoned wells by a registered well driller does not require permitting by the Health Department.

### **SECTION 9.3 – Failure Remediation**

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

## **ARTICLE X – RESPONSIBILITIES OF PERSONS**

### **SECTION 10.1 – Owner**

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

- A. Maintaining the system to prevent failure and resulting public health hazards or environmental pollution.
- B. Notifying the Health Department of any known or suspected system failure.

- C. Proper closure, by a registered well driller, of all abandoned wells.
- D. Acquiring a transfer evaluation prior to sale or transfer of the parcel.
- E. Acquiring annual alternative sewage system evaluation (for those parcels served by an alternative sewage system).
- F. Cooperating with the registered evaluator or Health Department representative by allowing access to the parcel, structures and the system, providing pumping of the septic tank when necessary, providing pertinent information to the evaluator and the Health Department and paying any required fee or charge.
- G. Remedying any system failure:
  - 1. For transfer evaluations, the owner must present documentation to a prospective buyer, prior to closure, that the corrective action plan required in Section 9.3 has been approved by the Health Department concerning who is responsible and how and when the remediation will be completed.
  - 2. If a public sanitary sewer is available, the owner shall apply to the municipality for a permit to connect the structure to the available public sanitary sewer or public water supply system.
  - 3. If no public sanitary sewer is available, the owner shall apply for a permit from the Health Department for any remediation, which involves repair, expansion or replacement of the system.
- H. If a system evaluation is exempted under Section 5.3, notify in writing to the Health Department of the sale or transfer and the reason that a system evaluation is not required.
- I. Notifying the Health Department of the purchase or acquisition of a parcel or structure served by a system not more than 45 days after the date of occupancy of the parcel or structure if the system had not been evaluated prior to the closing of the sale or transfer because winter conditions prevented the transfer evaluation specified in Section 5.2 prior to purchase or acquisition.
- J. Obtain a review, by the Health Department, of the on-site sewage and/or on-site water supply system prior to any property alterations as specified in section 10.3.

## **SECTION 10.2 - Registered Evaluator**

The responsibilities of the Registered Evaluator include:

- A. Providing documentation of each evaluation in accordance with Section 5.1, Section 5.2, Section 6.1 and other applicable provisions of this regulation.
- B. Follow Health Department established policy, criteria and standards for evaluation of On-site sewage and water supply systems.
- C. Providing owners with information on system maintenance. Such information may be in the form of brochures or fact sheets approved by the Health Department.
- D. Participating, upon notice from the Health Department, in administrative conferences, administrative hearings or other compliance or enforcement actions.

### **SECTION 10.3 – Municipality**

Responsibilities of the municipality, or agent authorized by the municipality, include:

- A. Assuring that the review of the Health Department has been obtained by the owner of an existing premise served by an on-site sewage system and/or on-site water supply prior to:
  - 1. Issuance of a permit for building additions to an existing premises.
  - 2. Issuance of a permit for the construction of a detached structure, including but not limited to pole barns and swimming pools.
  - 3. Issuance of permits for the replacement of an existing habitable building and/or premise with a new structure and where the owner proposes to use the existing on-site sewage system and/or existing on-site water supply.
  - 4. Issuance of approvals or permits to allow an additional premise (in addition to the one which the system(s) currently serves) to be connected to an on-site sewage system and/or on-site water supply.
  - 5. Issuance of a demolition permit and/or upon notification from the owner that demolition of a premise or habitable structure is planned.
  - 6. Authorization of use changes that would increase the quantity of wastewater generated and/or change the characteristics of the wastewater generated to the existing on-site sewage system.
  - 7. Authorization of use changes that would increase the number of persons served by a public water supply system.
- B. Notifying the Health Department when premises formerly connected to an on-site sewage system are connected to the available public sanitary sewer.
- C. Notifying the Health Department when premises formerly connected to an on-site water system are connected to available public water supply.

### **SECTION 10.4 – Health Department**

Responsibilities of the Health Department include:

- A. Administer and enforce this Regulation;
- B. Maintain the most current evaluation report as long as the property is served by an on-site sewage system and/or on-site water supply system and for three years thereafter;
- C. Maintain a list of Registered Evaluators to perform evaluations under this regulation.
- D. Require remediation where there is evidence of a system failure;
- E. Create and maintain a database of the systems inspected, evaluated and remedied.
- F. Establish criteria for the evaluation of on-site sewage systems and on-site water supply systems and the certification and registration of evaluators and make such criteria and related forms available to the public;

- G. Require risers, observation ports and other features to facilitate evaluations when issuing permits for the installation of on-site sewage systems.
- H. Issue transfer authorizations for sale, transfer or conveyance of property served by approved on-site sewage systems and/or on-site water supply systems.
- I. Review of proposed property alterations, new use of a property, or other changes on a parcel that may impact an existing on-site sewage system and/or on-site water supply or prevent adequate operation or replacement.
- J. Provide educational materials to the evaluators and the public.

## **ARTICLE XI – APPEALS**

### **SECTION 11.1 – General Provisions**

Any person taking exception to, or aggrieved by, a decision, ruling, requirement, violation notice, denial, disapproval or order issued by the Health Officer under these Regulations, after an opportunity for an Administrative Conference with the Health Officer or his/her designated representative, has the right to an administrative review. Such reviews shall be conducted in accordance with written procedures found in Article VIII of the Barry-Eaton District Health Department Sanitary Code and applicable provisions of the Administrative Procedures Act of 1969.

### **SECTION 11.2 – Administrative Reviews**

Administrative Reviews shall be convened and conducted in accord with the Barry-Eaton District Health Department Sanitary Code.

## **ARTICLE XII – COMPLIANCE AND ENFORCEMENT**

### **SECTION 12.1 – Investigations**

If the Health Department believes that a person is violating these Regulations, or a rule promulgated under these Regulations, the Health Department shall make a prompt investigation. The Health Department may, after presenting proper credentials and other documents as may be required by law, and upon stating the authority and purpose for the investigation, enter and inspect any property at reasonable times to ascertain compliance or noncompliance with this Regulation or Rules promulgated under this Regulation. This may include:

- A. Inspection at reasonable times of any parcel containing an on-site sewage system and/or water supply and related systems.
- B. Collection of evidence and information for the purpose of determining compliance with this Regulation or Rules promulgated under the Regulation.

If after this investigation the Health Department finds that a violation exists, the Health Department shall attempt to enter into a voluntary agreement with the person.

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

### **SECTION 12.2 – Enforcement and Compliance**

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

### **SECTION 12.3 – Assessment Against the Property**

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

### **SECTION 12.4 – Right to Obtain Samples**

An evaluation under Section 5.1 and Section 5.2 shall include the right to obtain samples where the Health Officer has reason to believe that there is a likelihood of contamination of surface water, ground water, water supply or other unsanitary conditions. Upon written notice, an owner or occupant of premises from which such evaluation is sought shall cooperate with the Health Officer.

## **ARTICLE XIII – FEES**

### **SECTION 13.1 – General Provisions**

Fees for registrations or other Health Department services required or authorized by these Regulations shall be assessed according to the current fee schedule established by the Barry-Eaton District Health Department Board of Health.

## **ARTICLE XIV – SEVERABILITY**

### **SECTION 14. 1- General Provisions**

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

## **ARTICLE XV – AMENDMENTS**

### **SECTION 15.1 – General Provisions**

The Health Officer may adopt amendments and revisions to these Regulations with the consent and approval of the Barry-Eaton District Health Department Board of Health, pursuant to Sections 2441 and 2442 of the Public Health Code.

## **ARTICLE XVI – OTHER AGENCY REQUIREMENTS**

### **SECTION 16.1 – Conflicts and Inconsistencies**

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

### **SECTION 16.2 – Local Ordinances**

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

### **SECTION 16.3 – Validity Of Property Transfer**

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

## **ARTICLE XVII – PENALTIES**

### **SECTION 17.1 – Violations**

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

### **SECTION 17.2 – Civil Penalties**

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

### **SECTION 17.3 – Injunctive Proceedings**

When any person has been found to have violated a provision of these Regulations, the Health Officer may maintain injunctive action to restrain, enjoin, prevent or



correct a violation of these Regulations, or a condition which adversely affects the public health, as provided in Section 2465 of the Public Health Code.

## **ARTICLE XVIII – CONFLICT OF INTEREST**

### **SECTION 18.1 – General Provisions**

At no time shall a registered evaluator provide major repairs to an on-site wastewater system and/or on-site water system, which require registration, licensure or permit to perform such work under this regulation, the Sanitary Code or other state statute, without first obtaining a permit, registration and/or licensure to perform such activities.

At no time shall a registered evaluator take unnecessary actions or make judgements leading to unnecessary repairs to an on-site wastewater system or on-site water system.

### **Section 18.2 Enforcement**

Violation of the general provisions of the article shall be grounds for revocation of registration as in Article VIII.

## **ARTICLE XIX – APPROVAL AND EFFECTIVE DATE**

### **SECTION 19.1 – General Provisions**

These Regulations have been adopted by the Barry-Eaton District Board of Health, and approved by the Barry County and Eaton County Board of Commissioners on x, as amended on x, and shall be effective 90 days after approval by both boards of commissioners. Contracts or purchase agreements executed on or after x shall be subject to these Regulations.