

THE UPPER PENINSULA ENVIRONMENTAL HEALTH CODE

2020 SUMMARY OF CHANGES

Blue– Changed Language, Green – Former Language, Red – New Language, Black- Comments
/Rationale, Purple - Existing Michigan Public Health Code Language for Public Reference

Notes: 1. throughout the document many “Health Officer” designations have been changed to “Department” to clearly define work allowed to be completed by Health Department Environmental Health Sanitarians versus Health Officer designated work to be completed by either the Health Officer or representative Environmental Health Director. 2. Michigan Compiled Laws Chapter references added throughout the document. 3. Rearranged sections.

1-1 Title (Section 1.2)

“The Upper Peninsula Environmental Health Code” to “Superior Environmental Health Code”
Change in title to recognize consistent U.P. wide code.

1-5 Right of Entry and Inspection SECTION 7.5 Inspections, Investigations, and Warrants

- A. To assure compliance with the provisions of this regulation, the Department may conduct investigations which may include collecting samples, conducting tests, inspecting any matter, thing, premises, place, person, record, vehicle, incident, or event as provided for by Section 2446 of the Michigan Public Health Code, Act 368, P.A. 1978 as amended. (Mich. Comp. Laws § 333.2446).
To enforce this code, the health officer may inspect or investigate any matter, thing, premises, place, person, record, vehicle, incident, or event. The health officer may collect samples for laboratory examination. The standards and procedures for issuance of an inspection or investigation warrant shall be in accordance with MCLA 333.2242-333.2247.
- B. It shall be unlawful for any person to molest, willfully oppose, verbally abuse, or otherwise obstruct the Department, or any other person charged with enforcement of these regulations, during, or as a result of performing, his or her professional duties.
SECTION 7.8 OBSTRUCTION OF HEALTH OFFICER It shall be unlawful for any person to molest, willfully oppose, or otherwise obstruct the health officer, or any other person charged with enforcement of this code during the performance of his or her duties.
- C. The Department may request the assistance of law enforcement agencies when necessary to execute the Department’s duty in a manner prescribed by law.

NOTE: 1-5 New Section Name. A&B (above) changed from RED to BLUE, with current language in GREEN. Existing Code language changed to provide a summary of existing language of existing Michigan Public Health Code of 1978 which grants right of entry to local health department. EXISTING Michigan Public Health Code Language below in PURPLE for public transparency and public reference, not proposed in draft.

Mich. Comp. Laws § 333.2241 Inspection or investigation to assure compliance; application for warrant. Sec. 2241. (1) To assure compliance with laws enforced by the department, the department may inspect, investigate, or authorize an inspection or investigation to be made of any matter, thing, premises, place, person, record, vehicle, incident, or event. (2) The department may apply for an inspection or investigation warrant under section 2242 to carry out this section. History: 1978, Act 368, Eff. Sept. 30, 1978. Popular name: Act 368

Mich. Comp. Laws § 333.2446 Inspection or investigation. Sec. 2446. To assure compliance with laws enforced by a local health department, the local health department may inspect, investigate, or authorize an inspection or investigation to be made of, any matter, thing, premise, place, person, record, vehicle, incident, or event. Sections 2241 to 2247 apply to an inspection or investigation made under this section. History: 1978, Act 368, Eff. Sept. 30, 1978. Popular name: Act 368

Mich. Comp. Laws § 333.2245 Warrant; directing to law enforcement officer; contents. Sec. 2245. An inspection or investigation warrant may be directed to the sheriff or any law enforcement officer, commanding the officer

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to assist the state or local health department in the inspection or investigation. A warrant shall designate and describe the location or thing to be inspected and the property or thing to be seized. The warrant shall state the grounds or cause for its issuance or a copy of the affidavit shall be attached to the warrant. History: 1978, Act 368, Eff. Sept. 30, 1978. Popular name: Act 368

Mich. Comp. Laws § 333.1291 Obstruction of person enforcing health law. Sec. 1291. A person shall not wilfully oppose or obstruct a department representative, health officer, or any other person charged with enforcement of a health law in the performance of that person's legal duty to enforce that law. History: 1978, Act 368, Eff. Sept. 30, 1978. Popular name: Act 368

1-7 Severability

If any section, subsection, clause or phrase of these regulations is for any reason declared unconstitutional or invalid, it is hereby provided that the remaining portions of these regulations shall not be affected.

Per legal advice and as per existing language in Michigan Public Health Code (below).

Mich. Comp. Laws § SECTION 23. SEVERABILITY AND CONSTRUCTION (a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

1-8 Other Laws and Regulations

These regulations are supplemental to the Michigan Public Health Code, Act 368, and P.A. 1978 as amended (Mich. Comp. Laws Ch. 333) and to other statutes duly enacted by the State of Michigan relating to public health and safety. These regulations shall be liberally construed for the protection of the health, safety, and welfare of the people of Western Upper Peninsula Health Department and shall control and prevail over a less stringent or inconsistent provision enacted by a local governmental entity for the protection of public health.

Existing language from Mich. Comp. Laws (State Code/Law/Statute) references were added throughout the document per legal advice for public transparency and local enforcement capabilities.

Mich. Comp. Laws § 333.1111 Intent and construction of code. Sec. 1111. (1) This code is intended to be consistent with applicable federal and state law and shall be construed, when necessary, to achieve that consistency. (2) This code shall be liberally construed for the protection of the health, safety, and welfare of the people of this state. History: 1978, Act 368, Eff. Sept. 30, 1978. Popular name: Act 368

1-12 Power to Establish Policy and Guidelines

- A. The Department is hereby granted the authority to adopt guidelines, not in conflict with the purpose and intent of these regulations, for the purpose of carrying out the responsibilities herein delegated to the Department by law and as necessary to conduct associated duties as required by contract with the State of Michigan. The Western Upper Peninsula Health Department is hereby authorized to develop and adopt a technical guidance manual. Technical Manual Guidelines, specifications and standard practices used to implement this code.
- B. All such guidelines shall be in writing and shall be kept in a policy file available for public inspection upon request. A current technical guidance manual shall be provided to the public upon request.

As per State Contracts and Accreditation Minimum Program Requirements

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1-13 Amendments

The Department, through approval by the Western Upper Peninsula Health Department Board of Health and the Baraga, Gogebic, Houghton, Keweenaw, and Ontonagon Board of Commissioners, may amend, supplement or change these regulations or portions thereof.

To allow minor changes as approved by the Board of Health.

Article II – General Definitions (Article 2.0)

2-1 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, terms or expressions not defined herein shall be interpreted in the manner of their commonly accepted meanings, in accordance with Standard English usage.

Board of Appeals - A board appointed by the Board of Health whose purpose is to hear, pass judgment and make recommendations upon enforcement actions under these regulations that have been appealed above the Health Officer.

Board of Health - The Board approved by the Baraga, Gogebic, Houghton, Keweenaw, and Ontonagon County Board of Commissioners to sit as the Western Upper Peninsula Health Department Board of Health.

Dwelling - Any house, building, structure, tent, watercraft, shelter, (changed trailer to mobile home, camper), vehicle, or portion thereof which is occupied or adopted in whole or in part as a home, residence, or living or sleeping place for one or more occupants.

To be all inclusive of other U.P. code definitions.

Environmental Health - Per Mich. Comp. Laws § 333.12101, the area of activity that deals with the protection of human health through the management, control, and prevention of environmental factors, which may adversely affect the health of individuals. This activity is concerned with the existence of substances, conditions or facilities in quantities, of characteristics, and under conditions, circumstances, or duration which are or can be injurious to human health.

Existing Michigan Public Health Code Definition

Governing Board - The Board of Health and/or the Board of Commissioners to which the Department reports.

To clarify the Board of Health

Health Officer - The administrative officer appointed by the local governing board who is responsible for the operations of the Department and the administration and enforcement of Michigan's Public Health Code, Act 368, P.A. 1978 as amended (Mich. Comp. Laws Ch. 333) and associated statutes within the legal jurisdiction of the Department. Health Officer also includes any employee or designee of the Department acting under the direction of the Health Officer during their normal course of duties.

Existing Michigan Public Health Code Definition

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Owner - Both the owner of title record, and those persons occupying or in possession of any property or premises, or their designated representative.

Premises - A tract or parcel of land on which a habitable building or dwelling is, or would be, located and shall include the building or dwelling.

New definitions per legal advice for clarification of responsible parties

3-1 Applicability (Section 5.2)

This article shall apply to single and two-family On-Site Sewage Treatment and Disposal Systems (OSTDS) and OSTDS other than private single or two-family residences, which utilize septic tanks and absorption system for peak daily flows less than 1,000 gallons per day.

To allow low flow commercial proposals to be permitted under our local code, less restrictive than State Code.

Appeals on all sites which serve buildings other than single and two-family residences, including those with peak daily flows of less than 1,000 gallons per day evaluated under these regulations, shall be made to the Michigan Department of Environment Great Lakes and Energy or current State agency responsible under the Michigan Criteria for Subsurface Sewage Disposal, as written by the Division of Environmental Health, Bureau of Environmental and Occupational Health, Michigan Department of Public Health, April 1994, By authority of Act 368, P.A. 1978, as amended (Mich. Comp. Laws Ch. 333) and Act 451, P.A. 1994, as amended (Mich. Comp. Laws § 324.101 – 324.90106), or current State requirement.

To clarify that appeals of MI Criteria go through EGLE.

Appeals on all sites where an OSTDS is proposed to be located on a parcel of less than one acre as created after July 28, 1997, a parcel within a subdivision, a parcel which is classified as a site condominium, or a parcel that was otherwise created in excess of the allowable number of exempt parcel splits under the Land Division Act, Act 288, PA 1967, (Mich. Comp. Laws Section 560) shall be made to the Michigan Department of Environment Great Lakes and Energy or current State agency responsible under the rules entitled Part 4. Department of Environmental Quality On-site Water Supply and Sewage Disposal for Land Divisions and Subdivisions, being R560.401-R560.428 of the Michigan Administrative Code, or current State statute.

To clarify that appeals of MI Criteria go through EGLE.

3-2 Licensure (Section 5.18)

Nothing in this code shall preclude a property owner, who is not a licensed OSTDS installer, from installing an OSTDS for his own (permanent residence change to use) under a valid permit.

Less restrictive to allow property owners to install their own septic system at their own camp or secondary residence.

3-3 Technical Definitions - On-site Sewage Treatment and Disposal (Section 5.0)

Absorption System - The part of an OSTDS in which septic tank effluent is distributed by arrangement of trenches or beds (deleted seepage pits) that allows the effluent to be absorbed and treated by the surrounding soil.

To clarify that seepage pits have never been an approved or permitted system type.

Absorption Bed - An absorption system with a minimum of two lateral lines in a distribution system wider than three feet installed below natural grade, at natural grade, or above natural grade on fill.

To clarify that mound systems (on fill) are absorption beds and not alternative. Current policy.

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Absorption Trench -

An absorption system twelve to thirty-six (12-36”) inches in width with one distribution line and installed below grade. Native soils shall remain in place between trenches in multiple trench systems.

To clarify current policy.

Alternative Sewage System -

Any on-site sewage treatment system that is not a conventional sewage system. Any OSTDS that is not a conventional sewage system and meets NSF/ANSI Standard 40 or equivalent.

To clarify alternative system standard as per current policy.

Conventional Sewage System -

An on-site sewage system containing a septic tank used in conjunction with absorption trenches or an absorption bed that utilized gravity distribution. An OSTDS containing a septic tank used in conjunction with an absorption system.

To clarify that pressure distribution system, commonly permitted as per current policy are conventional.

Effluent Filter -

A commercially produced filter designed to be installed in the outlet of a septic tank, or other approved location, for the purpose of preventing the discharge of solid material from the septic tank to the absorption system.

New definition as per current technical manual

Failing System -

An OSTDS is considered to be failing if any one of the following conditions exists:

(4) Any part of the OSTDS is bypassed; the system is the source of an illicit discharge; there is an absence of an absorption system and/or a septic tank, or there is a structural failure of a septic tank or other associated appurtenances.

(5) The OSTDS is creating or contributing to a threat to public health or the environment.

Expanded definition to be consistent with proposed draft state code.

Fill and Fill Material -

Soil that is placed beneath the absorption system of an OSTDS for the purpose of improving the infiltrative capacity of the native soil or to elevate the absorption system above a limiting layer to improve system performance. Fill shall consist of clean medium sand uncontaminated by other soil texture classes or debris of any kind, unless otherwise specified as part of a permit condition and approved by the Department.

New definition as per current technical manual

Holding Tank -

A watertight receptacle designed to receive and store sanitary sewage effluent to be pumped, hauled, and disposed of in an approved manner by a licensed septic hauler. (Delete at another location).

Updated definition to be consistent with State Septage Law.

Install -

To alter, construct, place, or repair an OSTDS or any component thereof, or to provide labor or oversight under formal contract or informal agreement

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including excavation work, installation of fill material, placement of a tank or installation of associated piping.

New definition to define work required by licensed installer.

Limiting Zone -

Any horizon or condition in the soil profile or underlying strata, which will interfere in any way with the treatment and/or infiltration of sewage effluent before entering the groundwater table. Such horizons include hardpans, fragipans, clay layers, compacted soils, bedrock, clayey soils, (deleted Saprolite) permanent and perched groundwater tables, and seasonal high water table.

Updated definition to meeting State Accreditation Minimum Program Requirements and recognize that Saprolite does not exist in Michigan.

Native Soil -

Naturally occurring soil deposited through geologic processes and undisturbed by human activity. Native soil does not include soil deposited as fill.

New definition as per USDA.

Natural Grade -

The ground elevation as it exists in the natural state prior to the placement of any fill.

Clarification based on USDA definitions and existing policy.

New or Increased Use -

The connection of a new structure to an existing OSTDS or the addition to a structure of at least one bedroom, or a change to a structure resulting in an increase in one bedroom or increased sewage flow rate of 150 gallons per day or more.

New in definitions, by same language as current in 5.9 of existing sewage system.

Sewage System

The Method and devices, including septic tanks, pipes, pumps, vents, absorption systems, and privies used to treat and/or dispose of all sewage.

OSTDS (Sewage System) -

An On-Site Sewage Treatment and Disposal System having the primary design that incorporates a septic tank and an absorption system, or a privy.

“Sewage System” term to be changed to “OSTDS” to be consistent U.P. wide and recognize the importance of wastewater treatment along with disposal.

Sewage System OSTDS Installer A person qualified to engage in sewage system installation, alteration, or repair. A person licensed to alter, install or repair an OSTDS.

Sewage system to OSTDS and change “qualified” to “licensed” to be consistent with current policy.

Permeability -

The quality of the soil, which enables it to transmit water or air. Permeability values in these regulations are based upon standard estimates derived from the United States Department of Agriculture (USDA) established soil texture classes.

Expanded Definition to be consistent with USDA.

Privy -

An enclosed non-portable toilet into which non-water-carried human wastes are disposed. Privies may be of earth pit or vaulted design.

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To clarify current policy.

Public Sewer - A sanitary sewer or combined sanitary and storm sewer used or intended for use by the public for the collection and transportation of sanitary sewage. Commonly known as a municipal sewage system.

To be consistent with State terms.

Riser - A watertight attachment to the top of a septic tank or dose chamber that allows at grade access to the tank for inspection and maintenance.

New definition as per current Technical Manual.

Deleted definition of “Saprolite” since it was removed from definition of “Limiting Zone”

Sanitary Sewage - Human wastes discharging from any plumbing fixture within a residence, building, (industrial changed to commercial) establishment, or other place, including toilets, kitchen, sinks, bath, showers, dish-washing, laundry wastes, and/or other associated fixtures.

Industrial wastewater is regulated by EGLE, not LHD; therefore change from industrial to commercial. Added other associated plumbing fixtures to meet current plumbing code. Deleted definition of Seepage Pit since they are not a permitted or approved type of sewage system.

Building Sewer Sewer line - That part of the system of drainage piping which conveys sanitary sewage into a septic tank or other treatment facility from a building or dwelling into an OSTDS or public sewer.

Site and Soils Evaluation - An investigation to evaluate the suitability of a tract or parcel of land to support an adequate sewage system. An on-site investigation to evaluate the suitability of a site (i.e., a specific location on each parcel) to support a functional, legally compliant, and environmentally sound OSTDS.

Stream - A river, watercourse, creek, gully, ravine, or ditch, natural or (delete human-made, change to manmade, which may or may not be serving as a drain, having definite banks, a bed, and visible evidence of flow, either continuous or intermittent, for a period of greater than two months in any one year.

Surface Water - Any natural or manmade body of water that exists on the ground surface for greater than two months in any one-year an extended period of time.

Vaulted Privy - A structure used for the disposal of human waste, which is discharged into a watertight receptacle designed and constructed for the purpose of receiving sanitary sewage.

3-4 Premises Occupancy/Condemnation (Section 5.5)

It shall be unlawful for any person to occupy, or permit to be occupied, any premises not equipped with an approved OSTDS for the disposal of sanitary sewage unless properly connected to a public sewer.

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3-5 Public Sewer Connection (Section 5.5)

All facilities from which sewage flows shall be connected to a public sewer, if available, or a sewage system. All facilities from which sanitary sewage flows shall be connected to an available sewer. When the Department has determined a lack of an available sewer, all facilities from which sanitary sewage flows shall be connected to an approved OSTDS.

3-6 Permits Required (Section 5.3.1)

An application for a permit to construct, alter, extend or replace a residential or commercial OSTDS shall be submitted by the property owner or his authorized representative using the appropriate form provided by the Department.

3-6.2 Construction Permits (Section 5.3.2)

- No person shall construct, alter, extend, or replace a residential or commercial OSTDS without first having been issued a construction permit from the Department.
- Any permit issued pursuant to the requirements of this code shall be valid for the term of 24 months from the date of issuance unless declared void as provided in this code. After the expiration of the construction permit, a 30-day grace period shall exist for an extension request. A construction permit may be extended for a period of 12 months following a site evaluation conducted by the Department that determines no change in the site conditions.
- The Department shall not issue a construction permit for any commercial OSTDS having a sewage flow rate of greater than 1,000 gallons per day, which does not meet the minimum criteria set forth in the Michigan Criteria for Subsurface Sewage Disposal, D48 Rev. 4/94, By authority of Act 368, P.A. 1978, as amended (Mich. Comp. Laws Ch. 333) and Act 451, P.A. 1994, as amended (Mich. Comp. Laws § 324.101 – 324.90106), or current State of Michigan requirement governing the installation of subsurface sewage disposal and treatment systems designed to handle sanitary sewage. The reasons for denial shall be furnished to the applicant in writing.
- Any (deviation change to variance) to the requirements of these regulations shall be documented by the Health Officer.
- The OSTDS installation contractor shall have a valid permit in possession on-site at the time of construction.

To allow permitting of small commercial low flow sewage systems at the local level. Adds existing state commercial code reference. Requires septic contractors to have permits on-site, same as current well driller language.

3-6.3 Priority Over Building Permits (Section 5.20)

No municipality, township, county, or other governing body shall issue a building permit for, or allow commencement of construction of, any addition to or alteration of any habitable building which would result in an increase in the number of bedrooms and/or additional sewage flows for any (premise changed to habitable building located on any land) not served by an available sewer until a permit has first been obtained for construction of an OSTDS or acceptance of continued use of existing OSTDS has been obtained from the Department.

As per current section 5.9.1

A municipality, township, or other agency or an officer or employee thereof shall not issue an occupancy permit for any newly constructed or placed habitable structure until final approval of the structure's water supply and sanitary sewage connection has been granted by the Department.

In accordance with current section 5.5.

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3-7.1 Authorization to Use an Existing Sewage System OSTDS (Section 5.9.1. (1))

- A. No person shall connect any habitable structure to an existing sewage system OSTDS except where allowed, in writing, by the Department.
- B. Sewage flow to an existing OSTDS shall not be increased beyond the original design capacity of the existing system except where permitted in writing by the Department.
- C. Approval of a new/increased use is not required for the following:
 1. A permit with a final inspection indicating OSTDS approval is on file and Department documentation indicates the water supply meets the required isolation distances and the proposed dwelling was not constructed and a new or increased use is not proposed.
 2. A permit with a final inspection indicating OSTDS approval was performed within the past five years and Department documentation indicates the water supply meets the required isolation distances, the proposed dwelling was constructed, and new or increased use does not occur.
 3. New or increased use was approved within the past two years, through the performance of an existing system evaluation by the Department, and an additional new or increased use has not occurred and is not proposed.

Based on current informal policy, less burdensome on property owner and building department.

3-7.2 Existing OSTDS (sewage system) of Permit Record (Section 5.9.1 (2.A.))

When a permit record with a final inspection conducted by the Department is available for the existing OSTDS in question, the new or increased use of the system may be granted when the following conditions are met:

- A system evaluation, conducted by the Department reveals no signs of system failure.
- The septic tank shall have been pumped and evaluated by a septage hauler within the last three years. A written report shall be provided by the septage hauler to the Department on forms provided. The report shall include information regarding the tank's materials and construction, condition, volume, and presence or absence of an outlet baffle. *New policy, less burdensome on property owner. Currently would have to have tank re-pumped.*
- The proposed new/increased use is no greater than a one-bedroom increase for residential structures or 150 gallons per day in the projected sanitary sewage flow for commercial structures. *Adds reference for commercial.*
- When the projected sanitary sewage flow is greater than 150 gallons per day or a one-bedroom increase, the OSTDS shall be modified or replaced to meet the requirements of these regulations. Permits shall be obtained for any modification or replacement. *Based on current policy.*

3-7.3 Existing OSTDS (sewage system) of No Record or Permitted Systems with No Record of a Final Inspection Performed by the Department. (Section 5.9.1 (2.B.))

When a permit record is not available, or when no record of a final inspection conducted by the Department is available, for the existing OSTDS in question, the new or increased use of the OSTDS may be granted when the following conditions are met:

- A. When adequate site and soil information, including water table information, is not recorded in the permit file, or when no permit exists, a site and soils evaluation shall be performed in the area of the existing OSTDS by the Department. It shall be the applicant's responsibility to provide excavations for the purpose of evaluation of soil conditions.
- B. Minimum of twenty-four inches (24") of soil exists between the limiting zone and the bottom of the absorption system.
- C. Isolation distances meet the requirements of this code as specified in Table 3-14.2A.

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- A. Existing septic tank and absorption system is sized adequate to meet the current sanitary sewage flows from the structure.
- B. The proposed new or increased use is no greater than a one-bedroom increase for residential structures or 150 gallons per day in the projected sanitary sewage flow for commercial structures.
- C. When the projected sanitary sewage flow is greater than 150 gallons per day or a one-bedroom increase, the OSTDS shall be modified or replaced to meet the sizing requirements of this code. Permits shall be obtained for any modification or replacement.

Clarifies current code language that says, “The site conditions have been determined to meet the requirements of this Code.” Based on current policy, which accepts existing system that don’t meet current code, but were installed in accordance with a past code, and not in a state of failure. Less burdensome on property owner, especially at the time of a real estate sale. Current language would require most existing systems not originally permitted to be replaced.

3-8 Connection of Discharges (Section 5.11 Prohibitions)

All facilities such as flush toilets, urinals, lavatories, sinks, bathtubs, showers, laundry or any other facility from which sanitary sewage flows shall be connected to an OSTDS, except that any such facilities hereafter installed on a premise where public sewer is available, shall be connected to said sewer.

From Michigan Plumbing Code

The following shall not be connected to an OSTDS:

- A swimming pool, hot tub (spa) or its appurtenances.
- Chemical solutions or other wastes, which would interfere with biological action in the treatment facilities.

The Department may require suitable provisions for the proper discharge or disposal of liquid wastes listed above.

Added items to prohibited connection that are known reasons for failure.

3-11 Site and System Evaluations 3-11.1 (Section 5.6.1 Minimum Test Excavations)

- Prior to the issuance of a permit to install a commercial or residential OSTDS, the Department shall conduct a site and soils evaluation to determine the ability of the parcel to meet the minimum requirements of these regulations. Backhoe cut excavations may be required and shall be provided at the expense of the applicant.
- The depth, number, type and location of soil excavations required to evaluate site suitability for the installation of a permitted OSTDS shall be determined by the Department and shall be consistent with the contract requirements of the State.
- A complete site and soil evaluation shall include, but shall not be limited to, the following information:
 - Soil permeability, based upon soil texture and structure in the native soil profile to a depth of at least four feet below the proposed infiltrative surface beneath the absorption system.
 - A determination of the seasonal high water table elevation and limiting zone.
 - Slope limitations.
 - Location of the site in relationship to flooding or seasonal ponding of surface water.
 - Availability of sufficient area to install an adequate compliant OSTDS and an area for a replacement OSTDS when required.
 - Adequate area to maintain all required isolation distance.
 - A determination of any other limiting factor to the installation and performance of the proposed OSTDS.

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- The Department may require as part of a soil evaluation, information including but not limited to engineering plans or drawings, topographic maps of a site indicating surface relief and/or grade elevations, soil analyses, additional soil test borings, groundwater elevations, flood elevations, information specific to easements, right-of-ways, parcel boundaries, wetland delineation, etc.
- A site and soil approval for the suitability of installation of an OSTDS shall be valid for not more than (DELETE 12) 24 months.
- Approval or denial of a site proposed for the installation of an OSTDS shall be provided in writing to the applicant.

Based on current existing site evaluation policy as per State accreditation Minimum Program Requirements. Extend site evaluations from 1 year to 2 years to accommodate real estate transactions and short building season.

3-11.2 Seasonal/Weather Restrictions (Section 5.6.2 and 5.7.3)

- A site and soils evaluation shall not occur (DELETE between December 1 and March 31st) when depth of snow cover, frost, or other impeding condition prohibits adequate evaluation of a parcel of land to determine the suitability of a site proposed for the installation of an OSTDS.
- Installation of an OSTDS shall not occur (DELETE between December 1 and March 31st) when it is reasonable to assume that weather and site conditions will result in a compromise to the construction, installation, and/or long-term operation of the proposed system.
- The health officer may grant written permission for an emergency situation on an individual basis during the restricted seasons if weather conditions are suitable and total installation shall be completed within forty-eight hours.

Field work and installation can be completed based on winter weather conditions, which vary year to year.

3-11.3 Final Construction Inspections (Section 5.15 Inspections)

Installation contractors shall notify the department 72 hours in advance of the date of completion of the OSTDS to schedule the final construction inspection. The Department shall perform the final inspection of the OSTDS within 72 hours of completion of installation, if advanced notification is provided as required.

After Department, final approval inspection of the construction of a newly installed OSTDS, or any newly installed component thereof, backfilling/covering shall be completed within 72 hours unless otherwise approved by the Health Officer.

Extends current policy of 24 hours to 72 hours.

3-12 Commercial OSTDS

Entire section is new. Reference to state Code language.

3-13 Lots less than 1 Acre, Subdivisions and Site Condominiums

Entire section is new. Reference to state Code language.

3-14 Residential Single and Two-family On-site Sewage Treatment and Disposal System (OSTDS) Construction (Section 5.7.1 Conventional Sewage System)

The following requirements shall apply to the construction and installation of all OSTDS.

- The natural slope in the proposed infiltrative area of the system shall not exceed twelve percent (12%). When natural slopes are greater than 12%, the department may require a detailed development plan to be submitted for review and approval by the Department.
Development plans shall be drafted by a licensed professional engineer, a professional surveyor, a registered sanitarian, a registered environmental health specialist, or other professional approved by the health department.

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Development plans shall be to scale with a maximum two foot (2') contour interval, with both the existing and proposed contours indicated. The development plan shall show the proposed design for the initial and replacement OSTDS, and shall indicate the location of the existing or proposed dwelling and water supply well. Locations of the OSTDS and the water supply well shall facilitate ease of access for future maintenance and/or replacement. *To allow for engineered system to be permitted on sites otherwise denied due to slope.*

- Deep cut excavations (DELETE shall not exceed 12 feet below grade and shall be considered an alternative sewage system) to remove undesirable soil horizons shall be made to a soil horizon meeting the requirements of Section 3.14.1.A.1 and 2.
- The site of the proposed system shall not be located in a floodplain of 100 years or less, or in an area subject to seasonal flooding, runoff, or ponding of surface waters. It shall be the property owner's responsibility to document the 100 year flood plain as recognized by the Michigan Department of Environment Great Lakes and Energy (EGLE), or appropriate agency, at the request of the Department.

Groundwater Control/Diversion. The Health Officer may consider the use of controls to modify surface runoff or groundwater elevation to permanently increase the effective soil depth by lowering the water table. Proposals for groundwater control/diversion shall be considered an alternative sewage system.

3-14.2 Construction (Sewage System) Requirements (Section 5.7.2 (A. 2.3, and 5))

The soil depth between the limiting zone and the aggregate/soil interface shall not be less than:

- Thirty-six inches (36") for an OSTDS that provides uniform distribution through pressure distribution.
- Forty-eight inches (48") for an OSTDS that provides non-uniform distribution through gravity flow.

Less restrictive, based on science, standard variance based on current policy.

The absorption system shall (not be sized for less than two bedrooms) have a minimum absorption area of 400 ft² for a bed system, or 300 ft² for a trench system.

To allow for a minimum sizing for small flow commercial systems. No sizing change for residential.

TABLE 3-14.2 A - Isolation Distances (Table 5.7.2 A)

From	To					
	Gravity Sewer or Effluent Lines	Pressurized Sewer or Effluent Lines	Septic Tanks or Pump Tanks	Absorption System	Earth Pit Privies	Vaulted Privies
Residential Well	10	50	50	50	50 (100)	50
Type IIB and Type III public water supply wells	10	75	75	75	75 (100)	75
Type IIA and Type I public water supply wells	10	200	200	200	200	200
Property Lines	n/a	n/a	10	10	10	10
Foundation Wall/ Footing drains	n/a	n/a	5	10 (25)	10 (20)	5
Storm/Subsoil Drains	n/a	n/a	5	25	25	5

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Water Lines	n/a	n/a	10	10	10	10
Embankments	n/a	n/a	10	20	20 (25)	10
Surface Water	n/a	n/a	75	75	75	75

Isolation distance changes to provide consistency between codes and science based public health protection.

3-14.3 Aggregate/Stone (Section 5.10.1 and 5.10.5)

Aggregate/Stone Material. Aggregate shall be washed stone ranging in size from (DELETE one-half inch) three-eighths inch (3/8”) to two and one-half inches (2½”) with a total fines content not exceeding five-tenths percent (0.5%) loss by washing. Stone aggregate shall rate three or more on Moh’s scale of hardness. Sizing and hardness specifications and testing methodology shall be defined in the technical manual.

Based on minimum stone sizing in MI Criteria for commercial systems.

Aggregate Cover The septic system shall be backfilled with a minimum of six inches (6”) and a maximum of thirty inches (30”) of soil cover.

Based on current technical manual.

3-14.4 Absorption System Distribution (Section 5.10.4)

The septic tank effluent line shall be solid schedule 40 PVC and connect to the header at a ninety (90°) degree angle between the centermost laterals.

As per plumbing code, and consistent with MI Criteria for commercial septic.

Distribution line laterals for absorption bed installations shall be placed a minimum of three feet (3’) and a maximum of four feet (4’) on center unless otherwise approved by the Department.

Current policy for EZ flow product and chambers.

Trenches shall be installed so that a minimum of thirty-six inches (36”) of undisturbed soil remains between each trench.

As per technical manual.

Installation of technologies not comprising a conventional stone aggregate and perforated pipe design shall obtain approval of the Department prior to permitting and installation, or shall be designed specifically in accordance with the Department’s technical manual.

To accommodate future technology.

3-14.5 Septic Tanks (Section 5.12)

- The sewer line from the building to the septic tank shall be constructed of schedule 40 PVC plastic with water tight joints or other approved material.
- Septic tanks shall be equipped with an approved effluent filter installed in the outlet baffle, or other approved location.
- Septic tanks shall be equipped with a water tight access riser installed to grade to facilitate maintenance. Risers shall be installed with dual lids, leaving the concrete lid in place, or shall be equipped with other Department approved safety device to preclude accidental tank entry.

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- The Department may require septic tank vendors delivering septic tanks to construction sites to record addresses and names of locations and individuals receiving tanks. These records may be required to be made available to the department for a running 24-month period.
- All septic tanks shall be installed to be level and to flow in accordance with the manufacturer’s design intent.
- All systems receiving sewage from a grinder pump shall be equipped with a minimum of two 1,000 gallon septic tanks. The first septic tank shall be installed in series to allow the settling of sewage discharged by the pump and shall be equipped with an outlet baffle.
- When septic tanks, privies, temporary privies, or portable toilets are cleaned or serviced, the agency performing such service shall comply with Part 117 P.A. 451 of 1994 (Mich. Comp. Laws § 324.11701 et seq.), as amended, or current State of Michigan requirement, and 40 CFR, Part 503 or current Federal requirements.

As per current existing technical manual and existing State Code (Michigan’s Criteria for Subsurface sewage disposal). The requirement to require vendors to submit delivery records to be used in enforcement action to prevent installation by property owners without permits.

3-15 Privies/Outhouses (Section 5.13)

Permitting of Privies

- Privies may be permitted for public or private use.
- Privies shall not be installed where not compliant with State of Michigan construction codes, associated Technical bulletins, policies, and advisories.
- Privies shall not be permitted in lieu of the installation of a septic system for structures served by pressurized plumbing, or otherwise generating water carried sewage.
- Vaulted or earth pit privies may be permitted if there is no available sewer for connection.
- Privies shall not be permitted within a 100 year floodplain boundary. The property owner shall be responsible for documenting the 100 year floodplain elevation as recognized by the Michigan Department of Environment Great Lakes and Energy upon the Department’s request.

Earth Pit Privies

Prior to an earth pit privy construction permit being issued the proposed location shall meet the following site requirements:

- Soil permeability rates of the native soil in the proposed infiltrative area of the absorption system shall be between 3 and 45 minutes per inch, as estimated by the USDA soil texture class.
- The effective soil depth shall be a minimum of sixty inches (60”) from natural grade.

Privy Construction

- All privies shall be constructed and maintained in accordance with Section 12771 of Act 368, P.A. of 1978 (Mich. Comp. Laws § 333.12771) and R 325.421 et seq. of the Michigan Administrative Code promulgated there under, or current State requirement.
- The bottom of the pit of an earth pit privy shall terminate a minimum of forty-eight inches (48”) above the limiting zone.
- Vault privies shall have a minimum tank capacity of 1,000 gallons, shall be of water tight construction, and shall be located to facilitate pumping of waste.
- Privies shall be located at least fifty feet (50') from all habitable buildings other than that which they serve.
- Privies shall be located as prescribed in Table 3-14.2.A of these regulations.

Based on current Board of Health Approved WUPHD privy policy.

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3-16 Abandonment of OSTDS (Section 5.9.3)

When an OSTDS is abandoned, it shall be rendered to prevent a potential safety hazard. Abandoned septic tanks shall be pumped and the contents disposed of by a licensed septage waste hauler according to law. The septic tank shall then be collapsed and filled with an approved material or shall be removed and transported and disposed of at a Type II landfill in accordance with law.

Article IV – Commercial OSTDS 1,000 gallons/day to 10,000 gallons/day

Entire section is new. Reference to Existing State Code, Michigan Criteria for commercial septic system.

Article V – Water Wells

5-2 Technical Definitions (Section 6.1)

Abandoned Well - A well which has its use discontinued, has been left uncompleted, is a threat to the groundwater resource, is or may be a health or safety hazard, or that is in such disrepair, or its construction is such, that its use for the purpose of obtaining groundwater is impractical.

As per existing Michigan Water Well Construction and Pump Installation Code definition.

A permit may be rescinded or declared void by the Department when one or more of the following conditions exists:

- Issuance of the permit, and/or the construction of facilities thereunder, may create a condition that constitutes a nuisance, or a threat to public health or the environment. *Added bullet point to existing list.*

The well driller/contractor shall have a valid permit in possession and on-site at the time of construction, unless operating under emergency conditions per Section 5-11. *To allow for emergency wells to be drilled prior to permit issuance.*

Pressurized water shall not be plumbed to a building without an approved connection to an OSTDS, or available sewer. *As per existing State of Michigan Plumbing Code.*

5-4 Availability of Public Water Supply (Section 6.4)

The existence or availability of a public water supply shall not preclude the issuance of an individual water supply construction permit under this Code unless prohibited by other regulations.

Such as contamination sites.

5-9.2 Approval (Section 6.9.2)

A completed “Water Well and Pump Record”, and the associated “Abandoned Well Plugging Record” if applicable, has been submitted, reviewed, and approved.

As per permit stipulation and existing Michigan Water Well Construction and Pump Installation Code.

5-10 Rental Properties (Section 6.10)

Water supplies serving rental properties may be condemned and ordered corrected by the Department when any one of the following conditions exists: The Department determines that continued use of a well represents a potential health hazard.

As per public health code language.

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5-13 Hydraulic Fracturing (Section 6.13)

All wells that have been hydraulically fractured shall be tested for the presence of coliform bacteria after completion of the hydraulic fracturing process and the disinfection/chlorination of the well.

As per existing state policy.

5-14 Geothermal Wells

Vertical closed-loop geothermal wells shall be permitted as a water well and shall be constructed in accordance with Michigan Water Well Construction and Pump Installation Code, Ground Water Quality Control (R325.1601 et seq.), by authority provided in Part 127, Act 368, PA 1978 as amended (Mich. Comp. Laws § 333.12714) and rules, the Michigan Department of Natural Resources and Environment, Best Practices for Geothermal Closed-Loop Installations, April 2010, and the Upper Peninsula of Michigan Geothermal Technical Guidance document, or current State and regional technical guidance and/or statute.

As per current existing EGLE Approved U.P. wide policy.

5-15 Lots Less than 1 acre, Subdivisions, and Site Condominiums

Entire section is new. Reference to existing Administrative Rules

5-16 Well Abandonment and Plugging

Entire section is new. Reference to existing Michigan Water Well Construction and Pump Installation Code.

Article VI – Public Health Nuisance/Imminent Danger

Entire section is new. Reference to existing Michigan Public Health Code 333.2251

Article VII – Food Service

Entire section is new. Reference to existing Michigan Food Law

Article VIII - Public Swimming Pools and Hot Tubs

Entire section is new. Reference to Existing Michigan Swimming Pool Rules.

8-2 Certified Pool Operator

All facilities operating and/or housing a public swimming pool or hot tub shall employ an operator possessing the National Swimming Pool Foundation (NSPF) Certified Pool Operator (CPO) credential or equivalent. The certified swimming pool operator shall be available for immediate response to the facility within 15 minutes.

8 of our current 20 pool facilities already have a CPO. Course is offered annually in Marquette, MI. Lack of knowledgeable personnel directly relates to the pool safety.

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Article IX - Campgrounds

Entire section is new. Reference to existing Campground Rules

Article X - Septic Tank Pumping and Land Application of Septage

Entire section is new. Reference to existing Septage Rules

Article XI - Body Art

Entire section is new. Reference to existing Body Art Rules.

Article XII – Cemeteries and Burials

Entire section is new. Based on current exiting policy approved by WUPHD Board of Health

Article XIII – Clandestine Drug Related Contamination

Entire section is new. Reference to existing Clandestine Rules.

Article XIV – Enforcement

14-1 Criminal Enforcement (Section 7.1 (1))

By authority of Michigan’s Public Health Code, Act 368, P.A. of 1978, Section 2443, as amended (Mich. Comp. Laws § 333.2443), a misdemeanor committed under this code is punishable by imprisonment for not more than (DELTE 90 days) **six months**, or a fine of not more than \$200 or both.

Per legal advice.

14-2 Civil Enforcement (Section 7.2. (2.A))

The notice shall be in writing and include the following information:

1. The nature of the violation, **stated with particularity**, including reference to the section alleged to have been violated.

Per legal advice.

14-4 Schedule of Civil Penalties (Section 7.4)

- A. Monetary civil penalties shall be imposed according to the following **schedule for subsequent violations occurring within a rolling 24-month period. Violations occurring beyond 24 months of the initial violation will be considered first violation.**

Per legal advice.

Article XVI - Appeals

16-1 Board of Appeals (Section 9.1)

- In order to provide for reasonable and equitable interpretations of the provisions of this code and associated technical manual, a board of appeals (DELETED is available) **may be formed** to hear appeals. The board shall have not less than three but not more than five members, appointed by the board of health. The appeals board shall be representative of varied interests.
- The membership of the board of appeals shall elect their own chairperson from among its membership.
- The Department shall provide administrative support to the board of appeals.
- **DELETED CURRENT LANGUAGE** (The members of the board of appeals shall be appointed for two-year terms. Vacancies shall be filled by appointment for the balance of the unexpired terms. An alternate member may be appointed to serve as needed to fill in for vacant members.)

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- Appeals on all sites which serve buildings other than single and two-family residences, including those with peak daily flows of less than 1,000 gallons per day evaluated under these regulations, shall be made to the Michigan Department of Environment Great Lakes and Energy or current State agency responsible under the Michigan Criteria for Subsurface Sewage Disposal, as written by the Division of Environmental Health, Bureau of Environmental and Occupational Health, Michigan Department of Public Health, April 1994, By authority of Act 368, P.A. 1978, as amended (Mich. Comp. Laws Ch. 333) and Act 451, P.A. 1994, as amended (Mich. Comp. Laws § 324.101 – 324.90106), or current State requirement.
- Appeals on all sites where an OSTDS is proposed to be located on a parcel of less than one acre as created after July 28, 1997, a parcel within a subdivision, a parcel which is classified as a site condominium, or a parcel that was otherwise created in excess of the allowable number of exempt parcel splits under the Land Division Act, Act 288, PA 1967, (Mich. Comp. Laws Section 560) shall be made to the Michigan Department of Environment Great Lakes and Energy or current State agency responsible under the rules entitled Part 4. Department of Environmental Quality On-site Water Supply and Sewage Disposal for Land Divisions and Subdivisions, being R560.401-R560.428 of the Michigan Administrative Code, or current State statute.
- Appeals against specific language referenced in State act, law, or statute shall be referred to the State regulatory authority having oversight over that specific act, law, or statute.

Appeals are so infrequent (2 in the last 10 years), appeals board to be formed on a case by case basis. State code language does not have opportunity for a Board of Health appeal and shall be forwarded to the State. These sections provide public clarification as to which appeals are heard locally and which appeals shall be directed to the State.