

CHAPTER I

General Provisions

SECTION I - AUTHORITY, JURISDICTION, AND ADMINISTRATION

1.1 Authority

By virtue of the power vested in the Board of Health of Mid-Michigan District Health Department under Act 368, P.A., 1978 "Public Health Code (MCL 333.1101 - 333.25211) the following regulations are deemed necessary for the protection and promotion of the health, safety, and welfare of the people of Clinton, Gratiot, and Montcalm Counties".

1.2 Health Officer

The Health Officer shall have jurisdiction throughout the counties of Clinton, Gratiot and Montcalm, including all cities, villages, and townships, in the administration and enforcement of these regulations and relevant state laws including all regulations or amendments hereafter adopted unless otherwise specifically stated.

The Health Officer shall act as the administrative officer of the Board of Health and shall be charged to make determinations necessary or appropriate to carry out the health department's functions under the Michigan Public Health Code, Act 368 of Public Acts of 1978, its rules and regulations, and the rules and regulations of the Mid-Michigan District Health Department.

1.3 Inspection or Investigation

To assure compliance with laws enforced by a local health department, the Mid-Michigan District 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 within its jurisdiction under Michigan's Public Health Code, the laws of the State of Michigan, or the laws of governmental units in Clinton, Gratiot, or Montcalm Counties.

1.4 General Power and Duties

The Mid-Michigan District Health Department shall continually and diligently endeavor to prevent disease, prolong life, and promote the public health through organized programs, including prevention and control of environmental hazards; prevention and control of diseases; and regulation of health care facilities and health service delivery systems to the extent provided by law.

1.5 Interference with Notices

No person shall remove, mutilate or conceal any notice or placard posted by the Health Officer except by permission of the Health Officer.

1.6 Fees

The Board of Health may fix and require the payment of fees for services authorized or required to be performed by the local health department. The Board of Health may revoke, increase, or amend the fees. The fees charged shall not be more than the reasonable cost of performing the service.

All fees collected by the Health Officer shall be receipted for and deposited to the credit of the Mid-Michigan District Health Department with the county treasurer where the administrative offices of the agency are based.

1.7 Validity

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 portion of these rules shall not be affected.

1.8 Other Laws and Regulations

These regulations are **in addition to the** minimum standards to the rules and regulations duly enacted by the Michigan Department of Environmental Quality, the Michigan Department of Community Health and to all other applicable laws of the State of Michigan relating to public health. Where any of the provisions of these regulations and the provisions of any other local or state ordinances or regulations apply, the more restrictive of any or all ordinances or regulations shall prevail.

1.9 Notification and Adoption

Prior to adoption of these regulations, the Mid-Michigan District Board of Health shall give notice of a public hearing and offer any person an opportunity to present data, views, and arguments. The notice shall be given not less than ten (10) days before the public hearing and not less than twenty (20) days before adoption of these regulations, and shall be in accordance with specifications given in Section 2442 of Act 368, Public Acts of 1978. After adoption by the Board of Health these regulations shall be approved by the Clinton, Gratiot, and Montcalm Counties Boards of Commissioners to become effective.

1.10 Amendments

The Board of Health of the Mid-Michigan District Health Department may from time to time amend, supplement, or change these regulations with the approval of the Boards of Commissioners.

1.11 Effective Date

These regulations and amendments thereto shall become effective at least forty-five (45) days after approval by the Boards of Commissioners for Clinton, Gratiot, and Montcalm Counties.

1.12 Repeal of Other Regulations

These regulations supersede the Environmental Health regulations of October 25, 2006 effective January 1, 2007. ~~31, 2001, effective January 1, 2002.~~ These regulations shall be retroactive except where persons have substantial vested rights under the old regulations.

1.13 Penalty

Any person who violates or otherwise fails to comply with any provisions of these Regulations is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$200.00, or both.

A violation of these Regulations may also result in the issuance of a citation, which shall include a monetary civil penalty according to a schedule of fines adopted by the Board of Health of the Mid-Michigan District Health Department of not more than \$1,000 for each violation or day that the violation continues.

1.14 Pre-Existing Violations

No violation of any repealed section or provision shall be made legal by virtue of a new effective date of these regulations. Any act, situation or condition of premises or things which when created or first allowed to exist was a violation of the Mid-Michigan District Health Department Rules, shall continue to be a violation of these regulations if a similar section or provision is a part of these regulations. Any action, issuance of permit, or maintenance of a condition that was mandatory under the provisions of the regulations now repealed, shall continue to be required if the same or similar provision is contained in these regulations.

SECTION II - APPEALS, VARIANCES, AND INTERPRETATION

~~2.1~~ Board of Appeals

In order to provide for the procedural due process under the provisions of these regulations, and their prospective application including violations thereof, there is hereby created an "Appeals Board". The Mid-Michigan District Board of Health shall constitute the "Appeals Board" and shall hear any appeals presented in accordance with rules and procedure established by said Board. The Chairperson of the Board of Health shall serve as chair of the Appeals Board. The Board shall furnish the appellant with a written report of its findings and decision.

~~2.2 Technical Advisory Committee (TAC)~~

~~At the request of the applicant, a Technical Advisory Committee (TAC) may be convened to provide technical assistance during an appeal process and hearing.~~

~~Said TAC shall serve to provide impartial expertise relating to the design, construction and operation of alternative septic systems that could be the basis of an appeal.~~

~~The TAC may also serve to provide a neutral opinion relative to the physical (soil and site conditions) characteristics inherent to the subject appeal or other pertinent information as deemed necessary to assist in rendering a sound decision.~~

~~TAC members shall be appointed by the Health Officer and shall consist of not more than nine persons equally representing Clinton, Gratiot, and Montcalm counties and the following sectors: 1) registered septic installers; 2) the general public; and 3) professional engineers (knowledgeable in residential sewage systems). Said appointment shall be for a minimum two (2) year term beginning January 1 of even numbered years.~~

~~TAC members from the subject county where the appeal is being heard should be contacted regarding availability before other members of the TAC are considered.~~

~~2.3 Hearing of Appeals~~

After having exhausted all possible remedies, including consideration from the Health Officer accompanied by a written response, a person may appeal a decision or order to the Appeal Board

The Appeals Board shall hear appeals based on the following rules of procedure:

- a. A written request to appeal shall be filed with the Health Officer within ninety (90) days of the decision or order.
- b. The Health Officer shall provide to the appellant a "Request for Appeal" form and appeal procedure.
- c. The appellant shall submit the completed "Request for Appeal" form, appeal fee and additional information pertinent to his/her appeal.
- d. The request for appeal shall be transmitted to the Appeals Board at its next regular board meeting.
- e. The Appeals Board shall set a time and date for appeal within forty-five (45) days or at the discretion of the Chair, the Appeals Board may establish a special meeting for appeal purposes.
- f. The Health Officer shall forthwith transmit the appeal hearing information to the appellant at least fifteen (15) days prior to the hearing date.

- g. At the request of the applicant or at the discretion of the Appeals Board, a Technical Advisory Committee (TAC) may be convened to provide technical assistance during the appeal procedure. The TAC is established and maintained per policy adopted by the Board of Health and shall serve to provide impartial expertise as well as a neutral opinion.
- h. The Chair of the Appeals Board shall conduct the hearing.
- i. The Appeals Board shall provide a written disposition of its findings and decision within ten (10) days to the appellant.

2.4 Variance

The Appeals Board and/or Health Officer may grant individual variances from the requirements of these rules when it has been determined that all the following conditions exist:

- a. That no substantial health hazard or nuisance is likely to occur; and
- b. That strict compliance with regulation requirements would result in unnecessary or unreasonable hardship; and
- c. That no state statute or other applicable laws would be violated by such variances; and
- d. That the proposed variance would provide essentially equivalent protection for the public health and would be in the public interest.

2.5 Interpretation

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. The word "shall" is always mandatory and not merely directory. Words or terms not defined herein shall be interpreted in the manner of their common meaning.