



COUNTY ADMINISTRATOR
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TO: Barbara Levin Bergman
Chair, Ways & Means Committee

THROUGH: Robert E. Guenzel
County Administrator

FROM: Anthony VanDerworp, Director
Department of Planning and Environment

DATE: May 16, 2007

SUBJECT: Privately Owned Community Sewage Systems Regulation

BOARD ACTION REQUESTED:

It is requested that the Board of Commissioners approve the attached resolution which would formally adopt the Regulation on Privately Owned Community Sewage Systems.

BACKGROUND:

Recent court decisions and changes in the interpretation of state legislation have created an opportunity for privately owned community sewage systems to become more common place. Prior to a court decision in 2003, (Lake Isabella Development vs. Michigan Department of Environmental Quality) developers were required to receive a local unit of government resolution indicating that government would accept responsibility for the private community system should it fail. Few developments were able to receive such a resolution so consequently few of these systems were installed. The Lake Isabella decision determined such resolutions could not be required as a permit condition.

Subsequent state legislation removed the local government's liability for these systems in the event of a failure and further legislation required that a private, investor-owned wastewater utility comply with all applicable provisions of local zoning and other ordinances.

Community sewage systems can provide a higher degree of treatment than individual septic systems and if managed properly offer the potential for

sustainable operation and maintenance. However they have potential disadvantages. They can allow for more dense utilization of land than normally may occur with individual septic systems. If they are not designed and built properly initially, and if they are not properly funded for long term operation and maintenance, they can become a threat to public health and the environment.

DISCUSSION:

On May 2, 2007 the Board of Commissioners held a Public Hearing on the proposed Regulation. As a result of comments received prior to and at the Public Hearing some changes were made to the Regulation as identified in Exhibit A attached to this memo.

The proposed regulation on Privately Owned Community Sewage Systems will assure the proper design, construction, operation, maintenance and funding of privately owned community sewage systems and allow for the establishment of procedures and guidelines to implement the regulation. The regulation will require:

- Notification to the County of proposed privately owned community sewage systems
- Connection to municipal sewer if determined available by the local unit of government
- Compliance with local regulations and zoning
- County construction permitting for systems treating less than 20,000 gallons per day
- County review and comment to State regulatory agencies for systems treating more than 20,000 gallons per day
- Assurance of proper construction through oversight and certification
- Assurance of proper operation and maintenance through renewable operating permits
- Enforcement and penalties regarding compliance with the regulation
- Establishment of procedures and guidelines to implement the regulation

This regulation is allowed under authority of the State of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, State of Michigan, MCL 333.1101 et seq. as amended. It provides authority to the Public Health Officer and her authorized representatives to enforce the regulation. The regulation will allow for the establishment of fees to cover the cost of implementing and enforcing the regulation.

IMPACT ON PERSONNEL:

No additional personnel are currently anticipated as a result of this regulation. As more community sewage systems are proposed the need for additional personnel will be evaluated.

IMPACT ON BUDGET:

All costs associated with administration of this regulation will be reimbursed through fees charged to the individuals that benefit from a private community sewage system.

IMPACT ON INDIRECT COSTS:

There will be no impact on indirect costs.

IMPACT ON OTHER COUNTY DEPARTMENTS OR OUTSIDE AGENCIES:

There will be no impact on other County Departments.

CONFORMITY TO COUNTY POLICIES:

This action is in conformance with County policies. The regulation has been endorsed by the Washtenaw County Public Health Advisory Committee / Environmental Appeals Board, the Board of Public Works and has been reviewed Corporation Counsel.

ATTACHMENTS/APPENDICES:

Resolution

Preparer: Daniel R. Myers P.E.
Director of Public Works

EXHIBIT A

CHANGES TO THE REGULATION FOR PRIVATELY OWNED COMMUNITY SEWAGE SYSTEMS

Preamble was modified to recognize the potential benefit of a POCSS

Preamble

Recognizing that the safe and sanitary treatment and disposal of human sewage wastes is fundamental to individual, community, and public health, further recognizing that municipally owned sewage systems have inherent advantages for the proper operation and maintenance of facilities over privately owned systems due to statutory authorities provided to municipalities to establish ordinances and generate appropriate fees, still further recognizing that Privately Owned Community Sewage Systems (POCSS) can provide a high level of public health and environmental protection if they are designed, installed and operated in a proper manner, still further recognizing that local units of government may establish, through a local ordinance or regulation, requirements for a POCSS which may be in addition to or more stringent than any requirement within this regulation and such requirements shall not be considered to be inconsistent with or in conflict with this regulation, still further recognizing the need to prevent the contamination of groundwater and surface water resources, and prevent the creation of conditions menacing the public health, this Regulation governing Privately Owned Community Sewage Systems are hereby established under authority of the State of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, State of Michigan, MCL 333.1101 et seq. as amended

Section 2.6 (second paragraph) was modified to recognize that the Notification of Intent is required early in the process and a description of an applicant's effort to comply with some requirements would be more appropriate than "documentation" of compliance

Section 2.6

The Notification shall include but not necessarily be limited to: the name and address of the applicant, the description of the property in which said construction is proposed, an engineering plan showing potential locations of the pertinent major features of the waste water treatment system including but not limited to potential treatment devices and proposed disposal method, a description of efforts to assure compliance with applicable state and local regulations and local zoning, and a description of efforts to determine the availability of a municipally owned sewer system. The Notification shall be accompanied by fees as established by the Washtenaw County Board of Commissioners.

Section 2.8 was modified to clarify ownership requirements of a POCSS

Section 2.8 Any owner of a POCSS, including any legally established “user association”, shall be required to form a legal entity such as an LLC, LLP or registered partnership and such entity shall be the POCSS owner of record. Any owner of a POCSS shall notify the Health Officer of a transfer of ownership to successor entity prior to the transfer.

Section 3.10, (h), 2. was modified to describe the purpose of an escrow or other financial assurance

2. An escrow account, line of credit or other financial assurance acceptable to the Health Officer to ensure that sufficient funding is available and restricted for the sole purpose of continuing uninterrupted system operation and maintenance and funding of adequate repair and replacement reserves.

Section 4.11. was modified to clarify when notification to the Health Officer or homeowners would be required on a failure of a POCSS

Section 4.11 In the event of a malfunction or failure of the POCSS or any of its components, which results in a sewage overflow or a limitation on the ability of the POCSS to effectively transport and treat sewage, the Health Officer and the users of the system affected by the malfunction or failure shall be notified within 24 hours of the event. The notification shall identify the nature of the malfunction, any sewage released, the corrective action planned, and the anticipated repair time and in the event of a failure, instructions to the affected users that the system shall not be used until corrections have been made.

A RESOLUTION ADOPTING THE REGULATION FOR
PRIVATELY OWNED COMMUNITY SEWAGE SYSTEMS

Washtenaw County Board of Commissioners

May 16, 2007

WHEREAS, The Washtenaw County Board of Commissioners has authority under the State of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, State of Michigan, MCL 333.1101 et seq. as amended to establish regulations to protect the public health and environment; and

WHEREAS, the safe and sanitary treatment and disposal of human sewage wastes is fundamental to individual, community, and public health and protection of the environment; and

WHEREAS, privately owned community sewage systems can be an effective means of sewage treatment and disposal if they are properly sited, designed, constructed, operated, maintained and funded; and

WHEREAS, a County regulation will provide assurance for the proper siting, design, construction, operation, maintenance and funding of private community sewage systems; and

WHEREAS, a regulation on Privately Owned Community Sewage Systems has been drafted by staff of Washtenaw County with input from Corporation Counsel, local communities and other interested parties; and

WHEREAS, a Public Hearing was held by the Board of Commissioners on Wednesday, May 2, 2007 to hear comments on the proposed Regulation on Privately Owned Community Sewage Systems and changes to the Regulation were made where appropriate.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the County of Washtenaw hereby adopts the Privately Owned Community Sewage System Regulation as attached hereto.

BE IT FURTHER RESOLVED that the Privately Owned Community Sewage System Regulation shall become effective on July 1, 2007.

BE IT FURTHER RESOLVED that the Board of Commissioners directs the Washtenaw County Clerk to publish the Regulation in a newspaper of general circulation as soon as is practicable prior to July 1, 2007.

A vote on the foregoing resolution was taken and was as follows:

YES:

NO:

ABSTAIN:

CERTIFICATION

I, the undersigned County Clerk of Washtenaw County, hereby certify that the foregoing is a true and accurate copy of a resolution adopted at a _____ meeting of the County Board of Commissioners held on _____, 200__, the original of which is on file in my office, and that notice of such meeting was given and such meeting was conducted in compliance with and pursuant to Act No. 267, Michigan Public Acts of 1976, as amended.

County Clerk

**Washtenaw County
Privately Owned Community Sewage Systems
Regulation**

Preamble

Recognizing that the safe and sanitary treatment and disposal of human sewage wastes is fundamental to individual, community, and public health, further recognizing that municipally owned sewage systems have inherent advantages for the proper operation and maintenance of facilities over privately owned systems due to statutory authorities provided to municipalities to establish ordinances and generate appropriate fees, still further recognizing that Privately Owned Community Sewage Systems (POCSS) can provide a high level of public health and environmental protection if they are designed, installed and operated in a proper manner, still further recognizing that local units of government may establish, through a local ordinance or regulation, requirements for a POCSS which may be in addition to or more stringent than any requirement within this regulation and such requirements shall not be considered to be inconsistent with or in conflict with this regulation, still further recognizing the need to prevent the contamination of groundwater and surface water resources, and prevent the creation of conditions menacing the public health, this Regulation governing Privately Owned Community Sewage Systems are hereby established under authority of the State of Michigan's Public Health Code, Act 368 of the Public Acts of 1978, State of Michigan, MCL 333.1101 et seq. as amended

Article I Definitions

Section 1.1 Available Sanitary Sewer: A municipally owned and operated public sewerage system whose use is permitted by the municipality which operates and maintains such sewerage system.

Section 1.2 Domestic Sanitary Sewage: Sewage having the consistency and strength typical of wastewater from residential household plumbing fixtures, appliances and other residential household devices. Waste from food service establishments, pet kennels or other commercial operations generating a high strength waste is not considered Domestic Sanitary Sewage.

Section 1.3 Failure: A condition in which a system (or a subcomponent of a system) is not performing its intended purpose.

Section 1.4 Health Officer: The Director of the Washtenaw County Health Department or his/her authorized representative.

Section 1.5 Malfunction: The failure of a component part or parts of a POCSS to perform its designated function.

Section 1.6 Municipality: Any city, village, township, county, authority, or other unit of government.

Section 1.7 One Hundred Year Floodplain: A geographic area adjacent to a river, creek, lake, stream, or other open waterway that has a one percent (1%) chance of experiencing a flood event in any given year.

Section 1.8 Owner: The original owner of the POCSS, or any other legal entity or association that accepts ownership from the original owner or successors in title.

Section 1.9 Privately Owned Community Sewage System (POCSS): A non-governmental privately owned and operated sewage system serving two or more residential dwellings or commercial establishments under separate ownership, consisting of combinations of component parts including septic tanks, pumps, filters, soil absorption system and other devices designed to safely collect, treat and dispose of sanitary sewage.

Article II General

Section 2.1 No building, structure, area, or premise shall be constructed or maintained for human occupancy, use, or assembly without adequate facilities for the safe and sanitary collection, treatment and disposal of all human excreta together with all liquid and solid wastes that could hazard the public health or create objectionable nuisance conditions

Section 2.2 Where there is an Available Sanitary Sewer as determined by the municipality where a POCSS is proposed, the utilization of such system shall be considered the only safe and sanitary means of sewage collection, treatment and disposal. No other private means of sewage disposal shall be maintained or used where there is an Available Sanitary Sewer. All connections and discharges to an Available Sanitary Sewer shall be in accordance with the rules and regulations or ordinance of the municipality operating and maintaining such sewerage system

Section 2.3 A local ordinance or regulation that establishes requirements which may be in addition to or more stringent than any requirement within this regulation, shall be considered to supplement this regulation and shall not be considered to be inconsistent with or in conflict with this regulation.

Section 2.4 All POCSS intended for the collection, treatment and disposal of sanitary sewage shall be constructed, managed, maintained and operated in such a manner that there is:

- (a) compliance with all applicable state laws, rules and regulations and all applicable local ordinances, regulations and zoning
- (b) secure and supervised access to components of the POCSS;

- (c) no unlawful pollution of any stream or other body of water;
- (d) adequate isolation and/or treatment to protect wells or other sources of water supply from contamination;
- (e) freedom from odor nuisance;
- (f) no discharge of sewage or effluent onto the surface of the ground unless such discharge is designed as an integral part of the treatment and disposal system;
- (g) Adequate financial resources to assure the safe and continual, long term operation and maintenance of the POCSS

Section 2.5 The Health Officer shall have the authority under this regulation to establish procedures and guidelines; including design and construction requirements, operating permit conditions; compliance schedules; financial assurance requirements; assumption of operation upon failure to perform; notification requirements when individual properties transfer ownership and other mechanisms deemed necessary to assure compliance with this regulation. The Health Officer shall seek to coordinate the implementation of this regulation with the appropriate State and Local agencies which may have similar statues and ordinances.

Section 2.6 To assure compliance with this regulation and to coordinate with other agencies, the Health Officer will require notification of intent to create, alter, add to, or improve a POCSS. The purpose of this Notification will be to allow the Health Officer to perform a preliminary review of a proposed POCSS. The Notification shall be submitted prior to, or concurrently with any submittal to the State for the purpose of receiving authorization to discharge from a POCSS and/or authorization to construct a POCSS.

The Notification shall include but not necessarily be limited to: the name and address of the applicant, the description of the property in which said construction is proposed, an engineering plan showing potential locations of the pertinent major features of the waste water treatment system including but not limited to potential treatment devices and proposed disposal method, a description of efforts to assure compliance with applicable state and local regulations and local zoning, and a description of efforts to determine the availability of a municipally owned sewer system. The Notification shall be accompanied by fees as established by the Washtenaw County Board of Commissioners.

Section 2.7 Upon receipt of the Notification, the Health Officer shall provide a copy to the local unit of government. Within 30 days from receipt the Health Officer shall review the material provided within the Notification and issue a finding which details areas of compliance or noncompliance with this regulation and any additional preliminary comments on the proposed POCSS. The finding shall address the following:

- (a) Whether there is an Available Sanitary Sewer

- (b) Whether the proposal is in compliance with local regulations
- (c) Whether the proposal is compliant with local zoning
- (d) Whether there are special conditions to be considered such as but not limited to; limitations or environmental concerns with the receiving waters; limitations due to the proposed site location or other environmental factors.

The Health Officer shall notify the applicant, the local unit of government where the POCSS is proposed and appropriate State regulatory agencies. Neither a construction permit for facilities treating less than 20,000 gallons per day nor an operating permit for any POCSS facilities shall be issued if the proposed POCSS is not in compliance with this regulation.

Section 2.8 Any owner of a POCSS, including any legally established “user association”, shall be required to form a legal entity such as an LLC, LLP or registered partnership and such entity shall be the POCSS owner of record. Any owner of a POCSS shall notify the Health Officer of a transfer of ownership to successor entity prior to the transfer.

Section 2.9 The Owner shall be responsible for the proper management, operation and maintenance of the POCSS. If the Owner fails to properly manage, operate and maintain the POCSS, responsibility shall revert to each individual user of the system and each user shall be financially responsible for their prorated share of all costs required to properly manage, operate and maintain the POCSS. Further, the Health Officer or a local unit of government may, but are not required to, assume responsibility for the operation of the facility and in conjunction with other County Agencies and/or the local unit of government may specially assess or otherwise charge each individual user for the cost to properly manage, operate and maintain the POCSS.

Section 2.10 Upon the transfer of ownership of any dwelling or structure served by a POCSS the seller shall disclose by written notification in the seller’s disclosure statement to the buyer that the buyer will be served by a POCSS and that the buyer shall be required to pay for the proper operation and maintenance, repair and replacement of the POCSS.

Section 2.11 Before a change of use of any existing building or structure from which sewage originates, the existing POCSS shall be reviewed by the Health Officer to determine if it is adequate for the intended use. If the Health Officer determines that the POCSS or any POCSS component is not adequate for the intended use the POCSS will be required to be upgraded. In such case a construction permit may be required by the Health Officer.

Section 2.12 The POCSS shall include all components of the collection and treatment system including the treatment component, any soil absorption system, the shared collection system, and any pump, tank, force main or other

system components that are located on individual properties which are served by the POCSS excluding the lead from the house to the first component of the POCSS. All components of a POCSS shall be owned and controlled by the same owner.

Section 2.13 Fees shall be established for the implementation of this regulation to assure that all costs necessary for the regulation of a POCSS are borne by the users of such systems. The fees shall be considered and established by the Washtenaw County Board of Commissioners as necessary.

Article III Design and Construction

Section 3.1 No POCSS shall be constructed, altered, added to or improved upon in Washtenaw County unless the Owner of the POCSS has received an approval from the Health Officer.

Section 3.2 During any construction activity, the Health Officer shall have full access to the site and be allowed to conduct any inspections, testing or other activities deemed necessary to assure proper construction and compliance with the approved plans and specifications. Such inspection or other activity shall be performed by the Health Officer or by an independent engineer or consultant hired by the Health Officer. All costs associated with this inspection activity shall be at the expense of the applicant or owner of the POCSS.

Section 3.3 The Health Officer shall be notified before any sewer line, septic tanks, soil absorption system or treatment structures are covered with earth. Inspection of such facilities may be required prior to covering.

Section 3.4 When, upon inspection, the facilities are found to be in general conformance with the approved plans and this regulations the facilities shall be approved and notification of such approval given. When, upon inspection, deficiencies are found that are in conflict with this regulation, or accepted practice, the Health Officer shall give notice to the owner or contractor of the deficiencies which must be corrected before final approval can be given.

Section 3.5 Upon completion of construction, the design engineer, or other qualified individual approved by the Health Officer, shall provide written certification that the facilities have been built in accordance with the approved plans and specifications and will operate as intended.

Section 3.6 All domestic sanitary waste, from flush toilets, urinals, lavatories, sinks, showers, bath tubs, floor drains, laundry trays, or any similar fixture or device normally receiving and discharging liquid waste to a sanitary plumbing system shall be connected to the POCSS approved by the Health Officer.

Section 3.7 The treatment and soil absorption system for a POCSS shall be installed on a parcel or on a general common element within a condominium project exclusively dedicated for this purpose and in such a location and manner as to be readily accessible for maintenance purposes and soil absorption systems shall be installed only under such circumstances where sufficient, suitable land area is readily available for necessary expansion and relocations of the soil absorption system. Easements shall be established as necessary to allow the installation and maintenance of the system component parts. No sewage treatment or soil absorption system shall be permitted under any building, driveway, parking lot, or paved area, or where soil conditions are deemed unsuitable for the disposal of sewage.

Section 3.8 All POCSS shall be constructed in accordance with accepted engineering practice, be of durable, serviceable materials and be installed in a professional manner.

Section 3.9 No POCSS shall be placed in operation, or otherwise used for its intended purpose, without an approval of the construction and installation of such system by the Health Officer and without an Operating Permit issued pursuant to Article IV of this regulation.

Section 3.10 A POCSS that treats less than 20,000 gallons per day and is intended to discharge to groundwater must receive a construction permit issued by the Health Officer prior to commencement of any construction, relocation or expansion.

Specific requirements related to a POCSS that treats less than 20,000 gallons per day are as follows:

- (a) A POCSS constructed under this Section shall treat and dispose of domestic sanitary sewage only, or non-domestic sanitary sewage generated from commercial or other types of establishments only. All domestic sanitary sewage shall be treated and disposed of separately from non-domestic sanitary sewage.
- (b) For any new or expanded POCSS an application for a preliminary design review shall be submitted by the owner of the system or his authorized representative. The preliminary design review process is intended to review the proposed basis of design for the proposed treatment system, the suitability of the site for the proposed soil absorption system and any other items deemed appropriate by the Health Officer prior to submittal of detailed plans and specifications.
- (c) The application for a preliminary design review shall include, but not necessarily be limited to: the name and address of the applicant, the description of the property in which said construction, is proposed, an engineering plan showing potential locations of the pertinent major features of the waste water treatment system

including but not limited to treatment devices and soil absorption system, the proposed water supply system(s), topographical features of the site, property lines and building locations and any sewage system or well system within 300 feet of the proposed POCSS. Information including soil tests and ground water information shall be provided, as deemed necessary by the Health Officer to make an adequate determination and finding that the proposed system should, in fact, if constructed, operate in accordance with the standards of these rules and regulations and provide reasonable protection to the public health. The application shall be accompanied by fees as established by the Washtenaw County Board of Commissioners. The Health Officer shall review the application for a preliminary design, and after any requested changes or clarifications are addressed, either issue an approval or denial of the preliminary design. Application for a preliminary design review of a POCSS shall be valid for a period not to exceed two (2) years.

- (d) Upon approval of the preliminary design, the applicant may proceed with an application for a construction permit. The approval of a preliminary design shall be valid for a period not to exceed three (3) years.
- (e) An application for a construction permit shall include, but not necessarily be limited to: the name and address of the applicant; documentation of compliance with local zoning; documentation of preliminary design approval; detailed site plan information identifying set backs from property lines and structures and isolation distances from all water supplies; detailed plans and specifications for the entire POCSS which address and comply with all requirements of the Washtenaw County Standards for Privately Owned Community Sewage Systems. The application shall be accompanied by fees as established by the Washtenaw County Board of Commissioners. The fees shall be sufficient to cover all costs associated with the design review and inspection of the construction activities until final approval of the system is provided and an Operating Permit is issued in accordance with Article IV of this regulation. An application for a POCSS construction permit shall be valid for a period not to exceed two (2) years.
- (f) A POCSS utilizing a soil absorption system shall be constructed under this regulation only where suitable soil, drainage conditions and land area will permit the use of such systems with assurance that sewage effluent will be absorbed into the soil under all anticipated weather conditions and not contaminate the surface of the ground or any ground water supply, pollute surface waters, and where inevitable repairs and relocations of such systems can be made without creating a community health problem.

- (g) A permit to construct a POCSS shall be denied for one or more of the following reasons:
 - 1. Where there is an available sanitary sewer;
 - 2. Where septic tanks or other parts of the system would be inaccessible for cleaning or inspection purposes;
 - 3. Where the property dimensions are too small for required minimum isolation distances;
 - 4. Where the maximum groundwater level is less than three (3) foot below the existing grade;
 - 5. Where the soil conditions are deemed by the Health Officer to be unsuitable for the disposal of sewage;
 - 6. Where the POCSS would be located in a 100-year flood plain elevation designation;
 - 7. Where conditions exist or may be created which may endanger the public health or the environment;
 - 8. Where there is not compliance with applicable state statues, local zoning or other local ordinances
- (h) Prior to issuance of a construction permit the following shall be provided, in a manner acceptable to the Health Officer:
 - 1. A detailed cost analysis/rate study of the system that identifies annual costs to manage, operate and maintain the system including the establishment of adequate reserves for repair and replacement of equipment.
 - 2. An escrow account, line of credit or other financial assurance acceptable to the Health Officer to ensure that sufficient funding is available and restricted for the sole purpose of continuing uninterrupted system operation and maintenance and funding of adequate repair and replacement reserves.
 - 3. A recorded deed document that clearly establishes the responsibilities of each owner of the system including the requirement to pay all costs needed to manage, operate and maintain the system and specifically consenting to the establishment of a special assessment district encompassing all users of the system.
- (i) An application for a permit to expand, relocate, or repair a POCSS shall be made by the owner or his authorized representative accompanied by the appropriate fee to the Health Officer. The application shall include the name and address of the applicant and an engineering plan showing the pertinent features of the wastewater system and the water supply system(s) along with the property lines, building location and any sewage system or well system within 300 feet of the proposed repair, expansion or relocation.
- (j) Any construction permit for a POCSS shall be valid for a period not to exceed two (2) years after date of issuance, unless declared void or extended by the Health Officer. The permit shall not be

- transferred or assigned by the permit holder to any new owner without permission of the Health Officer.
- (k) An approval or a permit for a POCSS may be declared void and/or additional conditions may be imposed by the Health Officer if prior to final approval by the Health Officer the area designated for the soil absorption system is disturbed by major filling, eroding, excavation, paving, flooding, or by location of a water supply well or other feature so as to encroach on any required isolation distance. The permit may also be declared void or additional conditions imposed if there is any increase in the scope of the project prior to final approval of the system.
 - (l) Where septic tanks or other appurtenances are utilized to serve individual residential or commercial units as part of the POCSS a separate construction permit shall be obtained for their installation by the owner of the POCSS.
 - (m) Subsurface soil absorption systems shall be installed in such a manner and location that surface water drainage is diverted away from the installation although such drainage should generally not be toward any water supply well in the immediate vicinity.
 - (n) Other devices and systems may be approved by the Health Officer for the treatment or disposal of sewage; provided, however, that before any such approval is granted, complete engineering plans and specifications shall be filed with the Health Officer and such approval shall be given only after complete review in accordance with guidelines, standards, criteria or rules governing such alternatives in place at the time

Article IV Operations and Maintenance

Section 4.1 The Health Officer shall establish conditions or requirements deemed necessary to assure the safe and effective management, operation and maintenance of a POCSS and shall issue an operating permit reflecting those conditions and requirements.

Section 4.2 No new POCSS shall commence operation until an Operating Permit is issued by the Health Officer. An Operating Permit shall not be issued until such time final approval of the construction of the POCSS has been received, the operational plan has been approved, and all fees have been paid.

Section 4.3 All POCSS already in service as of the effective date of this regulation shall submit an application for an Operating Permit within 180 days after such date.

Section 4.4 All permitted POCSS shall be maintained and operated by individuals trained and knowledgeable in the technology and operations utilized

by the POCSS. The operator shall possess all mandated licenses, certificates or other credentials required by law.

Section 4.5 All operators of a POCSS facility within Washtenaw County shall be State Certified and required to register with the Health Officer on a form provided by the Health Officer. Such registration shall include copies of all certifications, identification of responsible individuals and any other information deemed appropriate by the Health Officer. Any change in the information contained in the registration shall result in the re-submittal of the registration form.

Section 4.6 All POCSS shall be issued an operating permit that shall have a fixed term which shall not exceed 5 years. An owner of a POCSS shall apply for a re-issuance of the operating permit not less than 180 days before the expiration of the permit.

Section 4.7 An operating permit for a POCSS is not transferable to a new owner. Upon the transfer of ownership of any POCSS the new owner must apply for a new operating permit.

Section 4.8 Prior to issuance of an Operating Permit the following shall be provided, in a manner acceptable to the Health Officer:

- 1) Identification of the owner of the system
- 2) A detailed cost analysis/rate study of the system that identifies annual costs to manage, operate and maintain the system including the establishment of adequate reserves for repair and maintenance of equipment
- 3) An escrow account, line of credit or other financial assurance acceptable to the Health Officer.
- 4) A recorded deed document that clearly establishes the responsibilities of each user of the system including the requirement to pay all costs needed to manage, operate and maintain the system and specifically consenting to the establishment of a special assessment district encompassing all users of the system
- 5) An operational plan that identifies the certified operator, the required routine maintenance to be performed, emergency procedures, identification of ongoing costs and any other items deemed necessary by the Health Officer

Section 4.9 The Operating Permit shall include terms and conditions, established and reviewed from time to time by the Health Officer, which address at a minimum:

- 1) Facility contact information including the owner and certified operator
- 2) Operation of the facility by a certified and County registered operator

- 3) An operational plan that assures proper operation of all facilities in the POCSS including the routine maintenance of items located on individual properties such as septic tanks, pump systems or other appurtenances
- 4) Ongoing financial assurance of facility operations including an operating budget which assures appropriate repair and replacement reserves
- 5) Monitoring requirements
- 6) Reporting requirements including routine operational reporting and notification of non compliance
- 7) Facility effluent or performance standards and flow limitations as established by the Michigan Department of Environmental Quality.
- 8) Compliance schedule if required
- 9) Access to the facility by representatives of the Health Officer
- 10) Requirements for deed restrictions on all properties served by the POCSS
- 11) Notification and disclosure requirements to all users or potential new users of the POCSS
- 12) Routine information to be provided to homeowners regarding the proper use of the system
- 13) Any additional requirements as determined necessary by the Health Officer

Section 4.10 Routine operating reports shall be submitted to the Health Officer as required in the Operating Permit

Section 4.11 In the event of a malfunction or failure of the POCSS or any of its components, which results in a sewage overflow or a limitation on the ability of the POCSS to effectively transport and treat sewage, the Health Officer and the users of the system affected by the malfunction or failure shall be notified within 24 hours of the event. The notification shall identify the nature of the malfunction, any sewage released, the corrective action planned, and the anticipated repair time and in the event of a failure, instructions to the affected users that the system shall not be used until corrections have been made.

Section 4.12 If, in the sole judgment of the Health Officer, there is a failure to properly operate and maintain the POCSS, the Health Officer may undertake the operation and maintenance of the POCSS. All expenses associated with such an undertaking shall be the responsibility of the owner(s) of the POCSS.

Article V Administration

Section 5.1 The Health Officer of Washtenaw County shall have jurisdiction throughout Washtenaw County, including all cities, villages, townships, and charter townships, in the administration and enforcement of these rules and regulations and any amendments hereafter adopted, unless otherwise specifically stated, All premises affected by the rules and regulations shall be subject to inspection by the Health Officer, and the Health Officer may collect

such samples for laboratory examination as he deems necessary for the enforcement of this Regulation.

Section 5.2 No person shall refuse to permit the Health Officer to inspect any premises at reasonable times, nor shall any person molest or resist the Health Officer in the discharge of his duty.

Section 5.3 No person shall remove, mutilate or conceal any notice or placard posted by the Health Officer except by permission of the Health Officer.

Article VI Enforcement

Section 6.1 This regulation shall be enforced by the Health Officer.

Section 6.2 Notwithstanding the existence or pursuit of any other remedy, the Health Officer may maintain an action in the name of the County in a court of competent jurisdiction for an injunction or other appropriate process against any person to restrain or prevent violations of these rules and regulations.

Section 6.3 Should any section, paragraph, sentence, clause, or phrase of these rules and regulations be declared unconstitutional or invalid for any reason, the remainder of said rules and regulations shall not be affected thereby.

Section 6.4 The Health Officer may issue a Cease and Desist Order and/or suspend any permit, certificate or other approval issued pursuant to this Regulation to the owner or other party violating this Regulation, and afford the owner or other interested party Notice and Opportunity for Hearing.

Section 6.5 The Health Officer may issue a Stop Work Order for failure to adhere to requirements identified in the construction permit and approved plans and specifications, and afford the owner or other interested party Notice and Opportunity for Hearing.

Section 6.6 The Health Officer may request that Washtenaw County Corporation Counsel file a legal action to enjoin the violation. In addition, the Health Officer may seek to recover any and all costs including reasonable attorney's fees related to enforcing this regulation or otherwise related to correcting, removing or abating the violation.

Section 6.7 The Health Officer may issue a citation when an alleged violation is discovered. The citation shall state with particularity the nature of the violation, including reference to the Section of the Regulation alleged to have been violated, the civil penalty established for such violation, if any, and a right to appeal the citation pursuant to MCL 333.2461. The citation shall be delivered or sent by registered mail to the alleged violator.

Monetary civil penalties may be imposed according to the following schedule

- a. First violation: Up to: \$ 200.00
- b. Second violation: \$ 500.00

c. Third and subsequent violations each: \$ 1000.00

A civil penalty levied under this Section may be assessed for each violation or day that the violation continues. A decision by the Health Officer not to issue a citation shall not be construed as a waiver of any other rights or remedies authorized by law or this Regulation. The citation may be either hand delivered or sent by registered mail to the alleged violator.

Section 6.8 Any person who violates this Regulation is guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than \$200.00 or both. Conviction by jury, court or voluntary plea and acceptance by court under this provision shall not waive any other claim for fines, costs, injunction or other relief authorized by this Regulation. Each day that a violation of this Regulation exists shall constitute a separate offense.

Section 6.9 If an owner does not abate, correct or remove a violation as specified by this Regulation, the Health Officer shall cause an abatement, correction or removal of the violation to be performed and may charge all costs and fees associated with that action to the owner of the POCSS.

Section 6.10 If the owner or party violating this Regulation refuses on demand to pay such expenses incurred by the Health Officer to abate, correct or remove a violation, the sum shall be assessed against the property and shall be collected and treated in the same manner as taxes assessed under the general tax laws of this State

Article VII Variances and Appeals

Section 7.1 The Washtenaw County Public Health Advisory Committee / Environmental Appeals Board shall hear appeals for individual variances from this regulation and any subsequent standards, guidelines or criteria established under this regulation subject to any limitation identified in state statutes or rules. A variance will only be allowed where it is determined no substantial health hazard is likely to occur and unnecessary hardship might result from strict compliance.

Section 7.2 Any party issued a citation may, within ten (10) days from the date of the citation request an informal conference with the Health Officer at which time the person may indicate why s/he believes that s/he has not violated this Ordinance.

Section 7.3 A person aggrieved by a final decision of the Health Officer, after all appeals of that decision have been exhausted, may petition the Washtenaw County Circuit Court for review.

This regulation or any amendments thereto shall become effective as determined by the Washtenaw County Board of Commissioners.