

ARTICLE 9.0 APPEALS

SECTION 9.1 INFORMAL RESOLUTION OF DISPUTES

1. A person who disagrees with a decision of the Health Officer, arising out of this Code, is encouraged to meet and resolve the dispute with the Director of Environmental Health or the Health Officer. At any time a person may cease efforts to reach an informal resolution and may request a formal hearing before the Board of Appeals.
3. Before the Department suspends or revokes a license, the Department shall give notice, personally or by mail, to the licensee. The licensee shall be given an opportunity, at an informal meeting, to show compliance with all lawful requirements for retention of the license. In the absence of compliance, the Department shall issue a notice of a formal hearing, followed by a hearing, in accordance with the procedures outlined in Section 9.3 below. The Health Officer may order a summary suspension of the license if the public health, safety, or welfare requires emergency action.
4. Appeals on all sites which serve buildings other than single and two family residences, including those with peak daily flows of less than 1000 gallons per day evaluated under this Code, shall be made to the Michigan Department of Environmental Quality or current State agency responsible under the Michigan Criteria for Subsurface Sewage Disposal.

SECTION 9.2 BOARD OF APPEALS

1. In order to provide for reasonable and equitable interpretations of the provisions of this Code and Technical Manual, a board of appeals is available to hear appeals. The board shall have not less than four but not more than five members, appointed by a majority vote of the Board of Health. The appeals board shall consist of at least two members from Delta County and two members from Menominee County who are not presently members of the County Board of Commissioners or Board of Health. The appeals board shall be representative of varied interests with subject matter expertise.
2. The members of the board of appeals shall be appointed for two-year terms. Members of the Board of Appeals shall be reimbursed per diem and mileage to be set by the Board of Health. Vacancies shall be filled by appointment for the balance of the unexpired terms. The membership of the board of appeals shall elect their own chairperson from among its membership. The health department shall provide administrative support to the board of appeals. An alternate member may be appointed by majority vote of the Board of Health to serve as needed to fill in for vacant members.

SECTION 9.3 FORMAL HEARINGS

1. A person who disagrees with the decision of the Health Officer, and who has been unable to resolve the dispute informally, may petition the Department for a formal administrative hearing before the board of appeals. The petitioner has up to 60 days after the receipt of an adverse decision to do so. The formal hearing shall be held within 60 days after receipt of the petition. The petitioner shall be notified in writing by certified mail or personally served, at least five days before the hearing, of the time, date, and place. After the administrative hearing and any further investigation, the board of appeals, by resolution of the majority of the board, may affirm, dismiss, or modify the decision. The board of appeals shall state its decision on the record or shall furnish the petitioner with a written decision following the hearing.
2. Hearings shall be conducted in an impartial manner. The parties shall be given an opportunity to present oral and written arguments on issues of law and policy and an opportunity to present evidence and argument on issues of fact. The petitioner shall be allowed to present his or her argument and evidence first, followed by the respondent.
3. A party may cross-examine a witness, including the author of a document prepared by, on behalf of, or for use of the Department and offered in evidence. A party may submit rebuttal evidence.
4. The hearing must be recorded but need not be transcribed unless requested by a party, who shall pay for the transcription.
5. The Board of Appeals may affirm, reverse, wholly or in part, a decision of the Health Officer. In deciding an appeal, the Board of Appeals shall determine (1) whether the Health Officer properly interpreted the code and (2) whether the decision of the Health Officer was factually complete and correct. The Board of Appeals may include any conditions in its decision that the Health Officer could have made. Decisions shall be made by a majority of a quorum of the Board of Appeals.
6. The decision of the board of appeals in all cases is final within the department's jurisdiction and shall be subject to judicial review as provided by law. A person aggrieved by a decision of the board of appeals may petition the circuit court of the county in which the principal office of the health department is located for review. The petition shall be filed not later than 60 days following the receipt of the final decision.