

BERRIEN COUNTY  
SEWAGE DISPOSAL ORDINANCE

ORDINANCE #17

Adopted July 17, 1967  
Amended October 10, 1972  
Amended June 20, 1974  
Amended May 20, 1999  
Amended August 19, 2010

GENERAL PROVISIONS

The Board of Commissioners of Berrien County, in accordance with applicable law, including MCL 333.2441, as amended, hereby adopts this ordinance governing the disposal of sewage wastes; establishing minimum standards for the construction of sewage disposal facilities; to provide for the administration of the ordinance, to provide for penalties for the violation of the ordinance. This ordinance is passed for the express purpose of protecting the health, safety, and welfare of the people of Berrien County, it having been determined by the said Board that failure to provide adequate and safe systems of sewage disposal constitutes a danger to the health, safety and welfare of the people of Berrien County.

SECTION 1 - JURISDICTION AND ADMINISTRATION

1.1 JURISDICTION

The Health Officer shall have jurisdiction throughout Berrien County, 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.

Nothing herein contained shall be construed to restrict or abrogate the authority of any municipality in Berrien County to adopt more restrictive ordinances.

1.2 ENFORCEMENT

All undeveloped property and premises affected by these regulations shall be subject to inspection by the Health Officer, and the Health Officer may conduct soils evaluations and collect such samples for laboratory examinations as he deems necessary for the enforcement of these regulations.

1.3 RIGHT OF ENTRY AND INSPECTION

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

1.4 PENALTY

Any person who shall fail to comply with any provisions herein shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one thousand dollars (\$1000.00) or imprisonment in the county jail not exceeding ninety (90) days, or both such fine and imprisonment in the discretion of the court. Each and every violation of the provisions of these regulations shall constitute a separate offense.

1.5 ABATEMENT OR NUISANCE

Nothing stated in these regulations shall be construed to limit the power of the Health Officer to order the immediate and complete abatement of a public nuisance or menace to the public health or of a condition which, in the opinion of the Health Officer, may become a menace to the public health.

1.6 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.

1.7 VALIDITY

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

1.8 OTHER LAWS AND REGULATIONS

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 AMENDMENTS

The Board of Health of Berrien County may, from time to time, amend, supplement or change these regulations, with the approval of the Berrien County Board of Commissioners.

SECTION II - GENERAL DEFINITIONS

2.1 BOARD OF COMMISSIONERS

The term "Board of Commissioners" shall mean the Berrien County Board of Commissioners.

2.2 BOARD OF HEALTH

The term "Board of Health" shall mean the Board of Health of Berrien County, Michigan.

2.3 BAFFLE

A device designed to prevent the scum layer in a septic tank from flowing out of the tank into the sub-surface disposal system.

2.4 HEALTH DEPARTMENT

The term "Health Department" shall mean the Berrien County Health Department.

2.5 HEALTH OFFICER

The term "Health Officer" shall mean the Director of the Berrien County Health Department or his authorized representative.

2.6 HABITABLE-BUILDING

The term "Habitable Building" shall mean any structure or part thereof where persons live, or sleep, or reside, or are employed, or congregate, or which has been used for any such purpose at any time in the past year, or which is currently offered or listed for sale or for lease for any such purpose.

2.7 PERMIT

Shall mean a written document issued by the Health Officer permitting the construction of a sewage disposal system under this regulation.

2.8 PREMISE

The term "Premise" shall mean a parcel of land on which a habitable building is located and shall include the building.

2.9 PERSON

The term "Person" shall mean any individual, firm, partnership, party, corporation, company, society, association, or other legal entity.

2.10 OWNERS

The term "Owners" and "Persons owning Premises" shall mean both the owner of title and record and those occupying or in possession of any property or premise.

2.11 SEWAGE

Sewage is a combination of all the domestic and organic water carried wastes from any premise where persons reside, are employed or congregate. This shall include, but not be limited to, waste from flush toilets, sinks, lavatories, bathtubs, laundries, showers, urinals or any other such devices.

2.12 SEWAGE DISPOSAL FACILITIES

Sewage disposal facilities shall mean a privy, drywell, block trench, sewer line, septic tank, absorption trench, absorption bed, or similar device used in the disposal of sewage.

2.13 SEWAGE DISPOSAL SYSTEM

For the purpose of this ordinance, sewage disposal system shall mean a method of disposing of sewage by means of a sewer line connected to a septic tank and one or more of the following; dry well, block trench, absorption field, absorption trench, chamber system or any similar device or devices approved by the Health Officer. A privy is also considered a sewage disposal system.

2.14 SEWER

A sewer is a water-tight conduit for carrying sewage.

2.15 SEPTIC TANK

A septic tank is a water-tight receptacle used for the purpose of receiving all domestic and organic sewage and so designed to permit the separation of solids in suspension from such wastes and. to permit such retained solids to undergo

decomposition therein, permitting the effluent or overflow to be disposed of in an approved manner. Septic tanks shall be properly baffled. Effluent filters may be required.

#### 2.16 SUB-SURFACE DISPOSAL SYSTEM

Sub-surface disposal system shall mean an arrangement for distributing septic tank effluent or overflow, below the ground surface.

#### 2.17 UNDEVELOPED PROPERTY

Vacant land or parcel upon which no habitable structure exists.

#### 2.18 DISTRIBUTION BOX

A distribution box is a receptacle, installed with proper footing, provided with outlets on the same horizontal plane, used for the purpose of assuring the equal distribution of the septic tank effluent when such effluent is being disposed of by means of an absorption field, trench or bed.

#### 2.19 DRY WELL

A dry well shall mean an underground receptacle, not of water tight construction, which receives the effluent or overflow from a septic tank to be absorbed directly by the surrounding soil.

#### 2.20 OTHER TOILET DEVICES

Other toilet devices shall mean privies, holding tanks, portable toilets, and other such devices used for the collection of human excreta.

#### 2.21 SEASONAL GROUND WATER ELEVATION

Seasonal ground water elevation means the elevation of the upper surface of the zone of saturation as may occur during the normally wet period of the year or as indicated by soil mottling.

#### 2.22 EFFLUENT FILTER

Effluent filter is a filter installed on the discharge line of a septic tank designed to minimize the flow of suspended solids from the septic tank to the final disposal area.

#### 2.23 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. The word "approved" shall mean approved by the Health Officer.

The word "adequate" shall mean adequate in the judgment of the Health Officer based upon the requirements of this regulation, the requirements of the State of Michigan, and other published, generally accepted criteria, related to public health. Words and terms not defined herein shall be interpreted in the manner of their common meaning.

### SECTION III - SEWAGE DISPOSAL FOR ANY PREMISE

#### 3.1 PREMISE OCCUPANCY

It shall be unlawful for any person to occupy, or permit to be occupied, any premise which is not equipped with an adequate sewage disposal system for the disposal, in a sanitary manner, of all forms of sewage. Such facilities shall be constructed in accordance with the provisions of these regulations. Under no conditions may the sewage from an existing or hereafter constructed premise be discharge or deposited to surface waters or upon the surface of the ground.

#### 3.2 SEWAGE IN DRAINS

Whenever the Health Officer shall determine that sewage is flowing from any public or private sewer or drain of unknown course or origin, he may issue public notices requiring persons owning premises from which such sewage could originate, to connect such sewage flow to a public sewage system, if available, or in the absence thereof, to comply with the provisions of these regulations. Public notice shall consist of the posting of at least two (2) conspicuous notices in the probable area served by said sewer or drain. After not less than thirty (30) days following the posting of the notice, the Health Officer may plug or cause to be plugged the outlet of said sewer or drain until such time as the sources of the sewage have been located. Owners of the properties known to be discharging sewage into such sewers or drains posted by the local Health Officer shall be given written notice of corrections required within the time allowed by the posted notices. Failure to comply shall be considered a violation of the regulations.

### SECTION IV - CONSTRUCTION AND MAINTENANCE OF PRIVIES AND SIMILAR DEVICES

#### 4.1 PRIVIES

All privies and other toilet devices shall be constructed and maintained in accordance with MCLA 333.12771.

#### 4.1 PROHIBITION OF PRIVIES

No privy shall be maintained or be constructed on, or moved to, any premise where the services of a sewer is available for use, except as approved for special temporary uses by the Health Officer.

### SECTION V - SITE SUITABILITY

#### 5.1 SOIL SUITABILITY

From and after the effective date of this regulation, no sewage disposal system shall be installed upon a site where the following exist:

- (a) Where high seasonal ground water elevation is within twenty-four (24) inches of the natural ground surface or where ponding or flooding of the disposal site cannot be eliminated.
- (b) Where minimum required isolation distances from potable water supplies, surface waters, lot lines, or high-risk erosion areas cannot be maintained.
- (c) Where standard percolation - tests, when required by the Health Officer, indicate that the stabilized percolation rate exceed sixty (60) minutes per inch of fall or USDA Soil Survey of Berrien County indicates severe limitations for septic tank absorption fields due to wetness or slow percolation.

## SECTION VI - CONSTRUCTION AND MAINTENANCE OF SEWAGE DISPOSAL FACILITIES

### 6.1 METHODS OF SEWAGE DISPOSAL

When a public sewer is not available for public use, all facilities hereafter installed, such as flush toilets, urinals, lavatories, sinks, bathtubs, showers, washing machines, and any similar fixtures used to receive or conduct sewage, shall be connected to a sewage disposal system or to some other device approved by the Health Officer, provided that such facilities existing at the time these regulations are adopted, which are at present or become a hazard to public health, shall be connected to a sewage disposal system or to some other device approved by the Health Officer.

No sewage may be discharged into any body of water or into the ground within fifty (50) feet of a body of water or into a county drain or ditch.

### 6.2 SEWERS

(a) All sewers located within fifty (50) feet of any water well or water suction lines, or which conveys sewage from the premise to the septic tank shall be constructed of schedule 40 plastic, or other similar material, as approved by the Health Officer. Further, any buried sewer or pipe used to conduct sewage from a premise shall be located at least ten (10) feet from the nearest well, water suction line, or spring, and no exposed sewer pipe shall be located less than five (5) feet laterally from any well, water Suction line or spring.

(b) Size - no sewer line shall be less than two (2) inches in diameter. Sewers from any premise which carry toilet waste shall be four (4) inch sewer pipe with proper clean-outs.

(c) Grade - four (4) inch sewer pipe installed prior to the connection of a septic- tank or public sewer shall be laid at a grade of not less than one-eighth (1/8) inch per foot or more than one-fourth (1/4) inch per foot, within the ten (10) feet immediately preceding the septic tank or public sewer. Sewers of other diameters shall be laid at such a grade so as to provide a sewage velocity of not less than two (2) feet per second.

### 6.3 SEPTIC TANKS

(a) Location - septic tanks shall be located at least fifty (50) feet from any well, water suction line, spring or other drinking water supplies, except where all public water supplies shall be located, constructed, and maintained in accordance with State regulations entitled: Safe Drinking Water Act, Act 399, Public Acts of 1976, and Administrative Rules, or where the Health Officer shall require a greater distance for the protection of the public health.

No septic tank shall be placed within ten (10) feet of any lot line and must be placed at least five (5) feet from any basement wall, nor shall any septic tank be located where it is inaccessible for cleaning or inspection purposes. No septic tank shall be placed within ten (10) feet of any water lines, or within ten (10) feet of a bank or drop-off, nor within fifty (50) feet of a lake or stream, nor within five (5) feet of a dry well, or block trench. Installations other than single/two family residential and for those installations which exceed two thousand (2,000) gallons per day, the "Michigan Criteria for Subsurface Sewage Disposal" and the Water Resources Commission Policy Statement shall be utilized.

Where the top of a septic tank is located more than eighteen (18) inches below the finished grade, manholes shall be built up within eighteen (18) inches of the finished grade to facilitate routine maintenance.

(b) Capacity - every septic tank shall have a capacity of at least the average volume of sewage flowing into it during the period of twenty-four (24) hours, but in no case less than seven hundred and fifty (750) gallons, as measured from the water level, unless otherwise authorized by the Health Officer.

(c) When repairs are made to an existing sewage disposal facility serving a single family residence, existing septic tanks which are part of the system, and which do not meet the standards contained in these regulations, may remain in service without modification. This provision shall apply only if the Health Officer determines that such existing tanks are

in sound condition, of adequate size, adequately isolated from well water supplies, equipped with an outlet baffle, and otherwise pose no dangers to human health.

Table I sets forth minimum required capacities for household septic tanks. If a tank consisting of more than one (1) compartment or section connected in series is installed, the first compartment must have a capacity of at least one-half (1/2) of the total capacity, but not less than minimum of five hundred (500) gallons.

TABLE I  
MINIMUM REQUIRED CAPACITIES FOR HOUSEHOLD SEPTIC TANKS

NUMBER OF BEDROOMS	WITHOUT GARBAGE GRINDER MINIMUM TANK CAPACITY	WITH GARBAGE GRINDER MINIMUM TANK CAPACITY
2	750	1000
3	1000	1500
4*	1500	2000*

(\*For each additional bedroom, add 250 gallons)

(d) Construction and Materials - every approved septic tank shall be constructed in a workmanlike manner, of materials not subjected to corrosion or decay when installed, shall be of water-tight construction, and shall be provided with one or more suitable openings with covers to permit ease of inspection and cleaning.

The bottom of the inlet line into the septic tank shall be at least two (2) inches above the operating level of the tank. The outlet shall be constructed to permit withdrawal of liquid from the middle third of the depth of the liquid in the tank and to prevent the escape of floating or settled solids and must have a minimum scum clearance of eight (8) inches. The inlet must be so designed to permit gas above the liquid level to pass through the inlet line and out the vent pipe serving the sewer leading to the tank.

#### 6.4 DOSING CHAMBER

Absorption systems designed to accommodate sewage quantities equal to or exceeding 2000 gallons per day shall be dosed by means of pumps or siphons to ensure uniform distribution of sewage. Pumps used shall be of the submersible type and specifically designed for sewage pumping. Sewage pumping facilities shall comply with the National Electrical Code and a minimum of a visual alarm shall be provided unless otherwise specified by the Health Officer.

#### 6.5 SEPTIC TANK EFFLUENT DISPOSAL AND LOCATION

Septic tank effluent or overflow shall be disposed of in conformance with the regulations for an absorption field, or bed, or trench, or dry well, or seepage pit, or block trench, or disposal pond, and shall not be disposed of within fifty (50) feet from any spring, well or suction line; fifteen (15) feet from a basement wall or less than ten (10) feet from any lot line, or less than fifteen (15) feet from a bank or drop-off, or less than ten (10) feet from water lines, or within fifty (50) feet of any body of water, or within seventy-five (75) feet of any Type II or Type III public well.

#### 6.6 SUB-SURFACE DISPOSAL SYSTEM-STANDARDS

The installation of sub-surface disposal systems shall be sized in accordance with the rates listed in Table II. The required area for absorption fields and beds shall be figured as bottom area. The absorption area for dry well and block trench shall be figured as sidewall area. Pretreatment exceeding that of a single septic tank is required to achieve the maximum acceptable application rate.

TABLE 11

Soil Texture And Structure	Permeability		Maximum Acceptable Application Rate Gallons/sq. ft.	
	In./hr.	Min./in.	Trench	Bed
Coarse Sand Medium Sand	6 or more	Less than 10	1.00	0.75
Fine Sand and Loamy Sand	3 – 6	10 – 20	0.75	0.50
Sandy Loam	2 – 3	20 – 30	0.50	0.33
Loam Sandy Clay Loam	1.5 – 2	30 – 45	0.33	0.25
Clay Loam	1.0 – 1.5	45 – 60	0.25	0.17
Clays, Silts, Muck, Peat, Marl	>1.0	60+	Unsuitable	

A variance may be issued for soils exceeding a percolation rate of 60 minutes where the facility to be served is limited to a single family dwelling located on a 10 acre or larger parcel. Reasons, terms and limitations of the variance shall be stipulated by the Health Officer and the written variance agreement shall be filed as part of the permit and with the deed to the property at the Register of Deeds Office.

A soil absorption system or device for new home construction shall be located in such a manner as to provide sufficient area for installation of a future system or device of equivalent capacity.

**6.7 ABSORPTION FIELD, TRENCH OR BED**

When septic tank effluent is disposed of by means of an absorption field, trench or bed, it shall be disposed of beneath the ground surface in trenches or beds containing distribution tile lines. The tile lines shall be laid on a grade of not more than four (4) inches per one hundred (100) feet and parallel lines shall be at least six (6) feet apart in a trench and three (3) feet apart in an absorption bed. The tile lines shall be surrounded by washed stone from one-half (1/2) to one and one-half (1 1/2) inches, in size, or equivalent aggregate, extending at least six (6) inches below the tile, and at least two (2) inches over the tile, and the full width of the trench or bed. In a drain bed, the outermost distribution tile lines must be at least six (6) inches inside the edge of the stone and no more than eighteen (18) inches inside the edge of the stone. The distribution tile for a gravity system shall be at least four (4) inches in diameter laid at a bottom depth of no less than eighteen (18) inches or greater than thirty-six (36) inches below the finished grade. To assure proper disbursement of all the septic tank effluent throughout the absorption area, the Health Officer may require a distribution box or other similar approved device. Absorption trenches or beds must not be excavated when soil is wet or compacts easily. Open absorption trenches or beds should be protected from surface run-off to prevent entrance of silt and debris. All smeared or compacted surfaces must be raked or scuffed to a depth of one (1) inch before the stone or equivalent aggregate is placed in the trench or bed. The seasonal ground water level shall be at least two (2) feet below the bottom of the absorption field, trench, or bed.

**6.8 DRY WELL OR BLOCK TRENCH**

When septic tank effluent or overflow is disposed of by means of a dry well or block trench, it shall be disposed of beneath the ground surface. Such installations shall have the space between the structure and the earth wall filled with a minimum of six (6) inches of washed stone or equivalent aggregate to a point level with the inlet. All block or other material used above this inlet shall be laid with cement mortar at the end joint. Covers shall be easily removable or be

provided with port-holes for cleaning and inspection purposes. A distribution box or its equal shall be provided in all systems requiring three (3) or more dry wells.

The sidewall absorption area required for dry wells, seepage pits and block trenches, as set forth in Section 6.6, shall be determined as the sidewall area between the inlet pipe invert and the bottom of the structure.

The ground water level shall be at least two (2) feet below the bottom of the dry well or seepage pit or block trench.

#### 6.9 NEW TECHNOLOGY

Berrien County Health Department staff shall develop and implement appropriate standards for new technologies which enhance the effectiveness of sewage disposal systems

### SECTION VII - SUBMISSION AND APPROVAL OF PLANS

#### 7.1 PERMIT

No person shall construct, alter, or extend or replace any individual sewage disposal system within Berrien County unless he/she has a permit issued by the Health Officer.

A permit is not required to repair or replace the sewer between the dwelling and septic tank, or between the septic tank and final disposal area of the sewage disposal system.

At such time as the site and plans are approved, the Health Officer shall issue a permit for the installation of an individual sewage disposal system, providing that such meets the minimum requirements heretofore stated.

The Health Officer shall make such inspections during construction as he deems necessary. The Health Officer shall be notified by the owner or builder before the work is covered and placed in operation and shall issue a final inspection approval upon completion of the work. Failure to construct according to approved plans and specifications, or to secure the above described permit, shall be deemed a violation of these regulations for which the owner or agent may be held liable. Sewage permits expire twelve (12) months after issuance. The provisions of this Section shall not apply to municipal sewers or sewage treatment plants.

After the effective date, the following procedures shall be followed:

1. All individuals proposing construction of a sewage disposal system shall be referred to the Berrien County Health Department.
2. The Berrien County Health Department will receive an application for a sewage disposal permit.
3. The application will be followed up by an inspection of the site proposed to determine geological conditions, ground water table, and the isolation distances necessary to bring the proposed system into conformity with the sewage disposal regulation.
4. A sewage disposal permit shall be issued by the Berrien County Health Department, providing the property conforms to specifications within the sewage disposal regulation.
5. When the permit is issued by the Berrien County Health Department, the individual receiving the permit will be given two (2) copies of the permit, one to remain with the property owner as a permanent record and the other to be presented to the building inspector in order to obtain a building permit. Permits are not transferable to person or place.

6. The area (soils) on the sewage permit designated for the final disposal area shall not be compacted or disturbed prior to installation of the on-site sewage disposal system.

## 7.2 PRIORITY OVER BUILDING PERMITS

There being a potential public health hazard if a dwelling or habitable building is constructed on land not having public sewers available, no municipality, or their agency, shall issue a building permit, or otherwise allow commencement of construction or extensive repair/remodeling of any habitable building on land where public sewers are not available until a permit has first been obtained from the Health Officer for a sewage disposal system and proof of permit has been received.

## 7.3 FEES

For the purpose of defraying costs of administration of this regulation, fees shall be established by the Board of Health.

# SECTION VIII - BUSINESS OF BUILDING SEWAGE DISPOSAL SYSTEMS

## 8.1 REGISTRATION REQUIRED

No person shall engage in the business of installing sewage disposal systems or any part thereof within the County of Berrien, without first registering with the Health Department. A fee may be charged for such registration, and such registration shall be reviewed at the beginning of each calendar year.

# SECTION IX - SPECIAL APPROVAL

## 9.1 SPECIAL APPROVAL REQUIREMENTS

Where any premise or undeveloped property cannot be brought into full compliance with these regulations, the Health Officer may approve in writing certain conditions which in his opinion will not constitute potential menace to the Public Health. Where variances cannot be agreed upon between the person responsible for the premise or undeveloped property and the Health Officer does not approve of the conditions existing, the owner may submit an appeal to a board of review formed for such purposes as designed by the Berrien County Board of Health. The written appeal shall contain an appeal fee as established by the Board of Health. The Board shall be comprised of the following: two members at large appointed by the Berrien County Board of Health, a member of the Board of Health, a representative of the Board of Commissioners, and the Berrien County Corporate Counsel. Each member of the Appeals Board shall be formally notified by the Health Officer at least fifteen (15) days prior to the meeting date. The Board of Appeals shall review the problem in light of all possible ramifications and reach a decision relating to the problem.

# SECTION X - CONSTITUTIONALITY

## 10.1 UNCONSTITUTIONALITY CLAUSE

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

## 10.2 REPEAL OF OTHER REGULATIONS

All sewage disposal regulations or parts thereof inconsistent herewith are hereby repealed.

10.3 ADOPTION

It is hereby ordained by the People of Berrien County, represented by the Board of Commissioners, that the foregoing regulations affecting the public health and sanitation of the County of Berrien are hereby adopted on August 19, 2010, pursuant to the attached Resolution.

10.4 EFFECTIVE DATE

This ordinance shall be in effect on and after the 50<sup>th</sup> day following the date of adoption referenced in Section 10.3 herein.