

## **BRANCH – HILLSDALE – ST. JOSEPH COMMUNITY HEALTH AGENCY**

### **Regulations for Monetary Civil Penalties**

#### **I. Definitions**

- A. "Board of Health" means the District Board of Health of the Branch – Hillsdale – St. Joseph Community Health Agency
- B. "Health Officer" means the Administrative Director of the Branch – Hillsdale – St. Joseph Community Health Agency, and/or his or her authorized representatives. For the purpose of these regulations authorized representatives of the Administrative Director shall include the Director of Environmental Health and the environmental sanitarian employed by the Branch – Hillsdale – St. Joseph Community Health Agency.
- C. "Director of Environmental Health" means the director of the Environmental Health Division of the Branch – Hillsdale – St. Joseph Community Health Agency.
- D. "Community Health Agency" means the Branch – Hillsdale – St. Joseph Community Health Agency.
- E. "Health Department Representative" means individual authorized to issue citations under these regulations as provided by Article II, Part D of these regulations.
- F. "Public Health Code" means Act NO. 368 of the Public Acts of 1978, as amended, being section 333.1001 et seq. Of the Michigan Compiled Laws.

#### **II. AUTHORITY, JURISDICTION AND ADMINISTRATION**

##### **A. PURPOSE**

These regulations govern the issuance of citations for alleged violations of the Public Health Code (Michigan Public Act 368 of 1978, as amended) and other State or Municipal laws which the Community Health Agency is required and/or permitted to enforce, together with rules, regulations and orders promulgated thereunder or by the

Community Health Agency; the procedure for conducting hearings and appeals in connection with citations; the amounts of civil penalties from those who do not voluntarily pay,

#### B. AUTHORITY

These regulations are issued by virtue of the power vested in the Branch – Hillsdale – St. Joseph Community Health Agency by Sections 2441, 2442, 2461 and 2462 of 1978 P.A. 368, as amended, being Sections 333.2441, 333.2442, 333.3461 and 333.2462 of the Michigan Compiled Laws.

#### C. JURISDICTION

The Branch – Hillsdale – St. Joseph Community Health Agency and its representatives, as specified herein, shall have jurisdiction throughout Branch, Hillsdale and St. Joseph Counties including all cities, villages and townships, in the administration and enforcement of these regulations and amendments hereafter adopted, unless otherwise specifically stated.

#### D. ENFORCEMENT

The Health Officer or his or her authorized representative is empowered to issue citations for alleged violations of any law, rule, order or regulation, which the Community Health Agency is required and/or permitted to enforce.

#### E. ABATEMENT OF NUISANCES

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 a condition, which in the opinion of the Health Officer may become a menace to the public health. Nothing stated in these regulations shall be construed to limit any power vested in the Community Health Agency by the Public Health Code or any other applicable statute, rule, order, ordinance, regulation or other law.

#### F. VALIDITY

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

#### G. OTHER LAWS AND REGULATIONS

These regulations are supplemental to the rules and regulations duly promulgated by the State of Michigan, and to other local ordinances and regulations.

#### H. EFFECTIVE DATE

These regulations or amendments thereto shall become effective at such time as may be specified by the Board of Health. If no effective date is stated, the effective date shall be forty-five (45) days subsequent to approval by the Board of Health.

### III. SCHEDULE OF MONETARY CIVIL PENALTIES

A. Civil penalties are hereby established in the following amounts for the below-enumerated violations.

1. Installation of a sewage disposal facility without a permit (Environmental Health Code for Branch, Hillsdale and St. Joseph counties Michigan). For each violation or day that the violation continues, not more than \$100.00
2. Installation of private water supplies (Part 127 – Act 368 of the Public Acts of 1978, as amended, and rules) without a permit (Environmental Health Code for Branch, Hillsdale and St. Joseph Counties, Michigan). For each violation or each day that the violation continues, not more than \$100.00
3. Installation of a Type III water supply system, as defined by Act 399 of the Public Acts of 1976, without a permit (Environmental Health Code for Branch, Hillsdale and St. Joseph Counties, Michigan). For each violation or day that the violation continues, not more than \$100.00
4. Installation of a Type II water supply system, as defined by Act 399 of the Public Acts of 1976, without a permit (Environmental Health Code for Branch, Hillsdale, and St. Joseph Counties, Michigan). For each violation or day that the violation continues not more than \$100.00.
5. Operation a Food Service Establishment without a license (Section 4101, Act 92, of the Public Acts of 2000). For each violation or day that the violation continues, not more than \$100.00.

6. Violations of Act 368 of the Public Acts of 1978 and Administrative. For each violation or day that the violation continues not more than \$200.00
7. Violation of Act 399 of Public Acts of 1976 and administrative Rules. For each violation or day that the violation continues not more than \$200.00.
8. Violation of the rules and regulations of the Environmental Health Code for Branch, Hillsdale and St. Joseph counties, Michigan. For each violation or day that the violation continues, not more than \$200.00.
9. Violation of Priority item or Priority foundation item [Section 1109(w) and Section 1109(v), Act 92, Public Acts of 2000 as amended]. For each violation or day that the violation continues:
  - a. First Offense, not more than \$50.00
  - b. Second Offense, not more than \$100.00

#### IV. PROCEDURE FOR CITATIONS

##### A. ISSUANCE

If a representative of the Community Health Agency believes that a person or other entity has violated a law, rule, regulation or order which the Community Health Agency has the authority and/or duty to enforce and for which a monetary penalty is provided herein; the Health Officer may issue a citation charging the offense. The citation shall be issued not more than ninety (90) days after the Health Officer shall be served upon the alleged violation by personal service or by registered mail, return-receipt requested.

Not later than twenty (20) days after receipt of the citation the alleged violator may petition the Community Health Agency for an administrative hearing pursuant to Article V of these regulations.

A citation becomes final if a petition for an administrative hearing or review is not received within the time specified in these regulations.

##### B. PAYMENT OF FINE

A Civil penalty imposed under these regulations is payable to the Community Health Agency and shall be divided according to the formula used to divide other district funds. A civil penalty may be

recovered in a civil action brought in the county, which the violation occurred or the defendant resides.

Payment must be made within 15 working days of the date a proposed penalty becomes final. A check or money order shall be payable to the Branch – Hillsdale – St. Joseph Community Health Agency at the address shown on the citation. Checks and money orders should include the citation's identification number and item number (s).

### C. CORRECTION OF VIOLATION

1. Abatement and Notification of Abatement – Items of alleged violation that are not appealed must be corrected by the abatement date specified for the item in the citation. The person shall notify the Community Health Agency at the address indicated on the face of the citation when compliance with the item has been achieved. If the item is indicated "abated" in the abatement date column, no further action is required to notify the Community Health Agency of abatement on that item. The "Notification of Abatement" portion of the citation, a copy thereof, or a letter certifying compliance to notify the Community Health Agency may be used. Notification shall be mailed to the Community Health Agency within 3 working days of the abatement date of each item appearing on the face of each citation. All violations (items) when abated are subject to this notification requirement. If an appeal or a request for an extension of time concerning a portion of the violations (items) on the citation is filed, the Community Health Agency shall still be notified upon compliance with the remaining violations (items) on the citation.
2. Petition for Modification of the Abatement Date (Extension of Time) – A person may file a petition for modification of abatement date(s) with the Community Health Agency at the address shown on the face of the citation, on an item(s) of a citation which has become a final order of the Health Officer.

A person must have made a good faith effort to correct the violation within the abatement date, and has or will not be successful because of factors beyond the person's reasonable control. The petition for modification of abatement date must be filed with the Community Health Agency in writing by personal delivery or post-marked no later than one working day following the abatement date for which an extension of time is desired,

The petition for modification of abatement date(s) shall include: (a) Steps taken, and the dates of those steps, to achieve compliance during the prescribed abatement period; (b) the specific additional

abatement time desired; (c) the reason(s) the additional time is necessary, such as availability of professional or technical personnel or of materials and equipment, or facilities cannot be completed by the original abatement date; (d) Available interim steps being taken to safeguard the public health during the abatement period. If the Community Health Agency or affected persons file an objection to the petition for modification of abatement within 10 working days of the person's filing date, the Community Health Agency shall schedule a hearing and shall advise of the date, time and location of the hearing.

3. Correcting a violation prior to the expiration of the abatement date does not eliminate the requirement to pay the penalty. Payment of the penalty does not eliminate the requirement of correcting the violation.

## V. APPEALS

### A. Informal Review

The Community Health Agency may be contacted by telephone at the number indicated on the face of the citation for the purpose of discussing any issues raised by the inspection/investigation or citation. This type of informal contact shall not be considered an appeal of the citation under Section B of this Article.

### B. Formal Review

1. A Person who has been issued a citation may appeal to the Community Health Agency by delivering or mailing a written request for an administrative hearing to the Community Health Agency. The request must be delivered or postmarked not later than 20 days after receipt of the citation. If a written request for an administrative hearing is not made within the time specified by this section, the citation shall become final and shall not be subject to further appeal.
2. The request for an administrative hearing need not be in any particular form, but shall be signed and shall include:
  - a. The name, address and phone number of the petitioner;
  - b. A reference to the citation date and number;

- c. A short statement of the matters in question (such as the existence of a violation, reasonableness of the proposed fine or abatement date, etc.).
3. The Health Officer, or his or her designee shall hold an administrative hearing within 30 days after receipt of a timely written request for a hearing. The hearing shall be preceded by a notice to the petitioner which shall include:
- a. A statement of the date, time, place and nature of the hearing. Unless otherwise specified in the notice, the hearing is held at the Coldwater office of the Community Health Agency.
  - b. A statement that the decision of the Health Officer shall be final, unless within 60 days of the decision the Board of Health or committee thereof grants a review of the citation. After the review, the Board of Health or committee thereof may affirm, dismiss, or modify the citation.
  - c. And a statement that a person aggrieved by a decision of the health officer, Board of Health, or committee thereof under section 2462 of PA 368 of 1978 as amended, may petition the circuit court of the county in which the main office of the Community Health Agency is located for review. The petition shall be filed not later than 60 days following receipt of the final decision.

VI. REPEAL OF PREVIOUS REGULATIONS

Previous Regulations entitled "Regulations for Monetary Civil Penalties" as adopted by the Branch – Hillsdale – St. Joseph Community Health Agency Board of Health on January 25, 2001 are hereby repealed.

VII. ADOPTION AND EFFECT DATE

- A. These regulations are adopted by the Branch – Hillsdale – St. Joseph Community Health Agency Board of Health on: June 26, 2014
- B. These regulations shall become effective on August 10, 2014 (45 days following approval by the Branch – Hillsdale – St. Joseph Community Health Agency Board of Health)
- C. Date of Public Hearing: May 22, 2014.

