



**BUREAU OF WATER  
AND  
ONSITE SEWAGE PROGRAMS**

**MASTER SEPTIC TANK CONTRACTOR  
REGISTRATION PACKET**

**THIS PACKET CONTAINS:**

- **APPLICATION PROCEDURES**
- **APPLICATION FOR MASTER SEPTIC TANK CONTRACTOR REGISTRATION**
- **PART III OF RULE 64E-6, FLORIDA ADMINISTRATIVE CODE**
- **PART III OF CHAPTER 489, FLORIDA STATUTES**
- **CHAPTER 381.0065 - 381.00655, FLORIDA STATUTES**
- **CHAPTER 386.01 - 386.051, FLORIDA STATUTES**
- **FREQUENTLY ASKED QUESTIONS**

**MARCH 1998**

## MASTER SEPTIC TANK CONTRACTOR REGISTRATION PROCEDURES

### **APPLICATION**

The applicant must complete Sections I through III. Section IV must be completed by the local county health department where the applicant intends to provide master septic tank contracting services. The application must be mailed by the applicant, with the required support documentation and an application fee of \$75.00 (check or money order), payable to the **Department of Health** to:

### **MAILING ADDRESS**

Department of Health  
Bureau of Water and Onsite Sewage Programs  
Attn: Septic Tank Contractor Registration  
2020 Capital Circle S.E., Bin# A08  
Tallahassee, Florida 32399-1713

Completed applications and all required support documentation must be received by the department's Bureau of Onsite Sewage Programs at least 30 days prior to examination. This office reviews each application to determine the applicant's eligibility for examination. If eligible for examination, the applicant is notified of an examination date. If the applicant is determined ineligible for examination, the applicant is notified of the reasons for the determination. If determined ineligible, the applicant may petition for a hearing under section 120.57, Florida Statutes, (FS), within 30 days of the denial notification.

### **SUPPORT DOCUMENTATION**

Applications submitted without the following support documentation are incomplete and may be returned to the applicant or denied.

- Master Contractor Training Certificates.
- Notarized statement explaining items checked "yes" in Section III of the application.
- Attachment I (Statement Acknowledging Statutory and Rule Requirements).
- Application fee of \$75.00.

### **REGISTRATION EXAMINATION**

The examination is closed book. It consists of one hundred (100) multiple choice questions based on Chapter 64E-6, Florida Administrative Code, sections 381.0065 - 381.00655 of Chapter 381 and Part III, Chapter 489, Florida Statutes and four practicals covering systems design, soils, aggregate and dosing systems. An average score of 70% is required.

### **MASTER CONTRACTOR CERTIFICATES AND RENEWALS**

Applicants who pass the examination must pay an additional \$100.00 fee to complete registration. Successful applicants will be issued a master registration certificate which expires on September 30 following the effective date of the certificate. Master Contractors must complete 12 classroom hours of approved training for renewal each year. At a minimum, 6 of these hours must be in an approved master contractor course.



**SECTION IV: COUNTY HEALTH DEPARTMENT REVIEW:**

PLEASE ANSWER EACH QUESTION. IF YOU ANSWER "YES" TO ANY QUESTION PLEASE ATTACH A STATEMENT AND DOCUMENTATION EXPLAINING YOUR ANSWER.	YES	NO
HAS THE DEPARTMENT IMPOSED PROBATION OR SUSPENSION ON THIS APPLICANT'S SEPTIC TANK CONTRACTOR REGISTRATION DURING THE LAST THREE YEARS?		
HAS THIS APPLICANT BEEN ASSESSED MORE THAN \$500.00 IN ADMINISTRATIVE PENALTIES BY THE DEPARTMENT IN THE LAST THREE YEARS?		
DO YOU HAVE AN OUTSTANDING FINE ASSESSED AGAINST THIS CONTRACTOR WHICH IS IN FINAL ORDER STATUS AND JUDICIAL REVIEWS ARE EXHAUSTED?		
HAS THIS CONTRACTOR SUCCESSFULLY RESOLVED ANY DISCIPLINARY ACTION INVOLVING SEPTIC TANK CONTRACTING WHERE ADMINISTRATIVE ACTION WAS FILED?		
HAS THIS APPLICANT HAD A MASTER SEPTIC TANK CONTRACTOR REGISTRATION REVOKED BY THE DEPARTMENT IN THE LAST THREE YEARS?		

REVIEWED BY \_\_\_\_\_ TITLE \_\_\_\_\_

COUNTY \_\_\_\_\_ DATE \_\_\_\_\_

**STATE HEALTH OFFICE REVIEW:**

	Check No. _____ Check Date _____ Amount _____ Date of Approval/Denial _____ Examination Date(s) _____	Registration Check No. _____ Check Date _____ Amount _____ Registration No. _____ Date Issued _____
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# ATTACHMENT I

## MASTER SEPTIC TANK CONTRACTOR REGISTRATION APPLICATION

### Statement Acknowledging Statutory and Rule Requirements

To The Master Septic Tank Contractor Registration Application File Of

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Last Name

First Name

MI

I have received and understand section 381.0065, Florida Statutes (F.S.), Part III, Chapter 489, F.S., Chapter 386, F.S., and Chapter 64E-6, Florida Administrative Code.

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

**PART III, CHAPTER 64E-6, FLORIDA  
ADMINISTRATIVE CODE**

**64E-6.019 REQUIREMENTS FOR REGISTRATION**

(1) Persons subject to registration - A person shall be subject to the requirements of this rule if he or she contracts or advertises to provide services to the public or holds himself or herself out as being capable of performing services related to any of the following activities in the onsite sewage treatment and disposal industry regulated by the department:

- (a) Installation of onsite sewage treatment and disposal systems,
- (b) Repair of onsite sewage treatment and disposal systems,
- (c) Modification of onsite sewage treatment and disposal systems,
- (d) Maintenance of onsite sewage treatment and disposal systems,
- (e) Septic tank pumping and septage disposal services, excluding companies which only provide portable toilet or temporary holding tank services,
- (f) Abandonment of an onsite sewage treatment and disposal system.

(2) Any person seeking registration shall apply to the department to take the registration examination on Form DH 4075, 1/97, Application for Septic Tank Contractor Registration, incorporated by reference in these rules. The form is available from the department.

(3) A person shall be eligible to take the registration examination if they submit necessary exhibits and fees and meet the requirements of s. 489.553(4), F.S.

(a) Under the supervision and control of a registered septic tank contractor or a plumbing contractor in s. 489.553(4)(d), F.S., is defined as an employment relationship where compensation can be documented by the regular deduction of FICA and withholding tax and the provision of worker's compensation, all as required by law.

(b) Out-of-state work experience on a year for year basis shall be accepted for any applicant who demonstrates that they hold a current statewide license for septic tank contracting which was issued upon satisfactory completion of an equivalent examination and required continuing education courses for renewal. For purposes of this section, an equivalent examination means that at a minimum, the following topics were tested and passed: system location and installation; site evaluation criteria; system size determinations; disposal of septage; construction standards for drainfield systems and U.S. Department of Agriculture soil textural classification system. A person employed by and under the supervision and control of such a licensed contractor shall be granted up to two years of related work experience.

(4) Completed applications for examination must be received by the department's Onsite Sewage Program at least 30 days prior to examination. In order to be complete, the application must have all appropriate spaces filled, be signed by the applicant, be reviewed by the county health department where the applicant provides service, include a money order or

sufficiently funded check in the correct amount and contain all necessary support documentation. Support documentation shall include:

(a) A list of all contracts by the applicant or business organization under way at the time of filing, if any, along with a list of all contracts completed 3 years immediately preceding the date of filing or, in the alternative, a list of the 25 most recent contracts performed. This list shall include the description of each job, location, owner, construction permit number if applicable, date job completed, and general contractor, if applicable.

(b) Affidavits from two persons not related to the applicant for whom the applicant has provided contracted services, stating that the applicant is of good moral character.

(c) Certification from a registered septic tank contractor of the applicant's employment dates and work responsibilities, to include documentation of payment of federal withholding tax and social security and worker's compensation, all as required by law.

(d) Two recent color passport style photographs, not older than 12 months and 1 1/2 X 1 1/2 inches in size.

(5) Eligible applicants must successfully complete an examination administered by the department. Minimum passing score for the examination shall be a 70 percent correct response to all questions comprising the exam.

Specific Authority: 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(2),(3) and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011(4), 381.0012, 381.006, 381.0061, 381.0065, Part III 489.552, 489.553 FS. History: New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.072, Amended 2-3-98.

**64E-6.020 MASTER SEPTIC TANK CONTRACTORS**

(1) A septic tank contractor or a plumbing contractor certified under 489.105(3)(m), F.S., who is eligible under s. 489.553(5)(a) and (b), F.S., may apply to the department on form DH 4105, 10/96, Application for Master Septic Tank Contractor Registration, hereby incorporated by reference and available from the department, to take the master contractor examination provided the contractor:

(a) Has been in "active" status for the three years immediately preceding the date of application. This time period may not be interrupted by or include any registration probation or suspension imposed by the department through administrative action.

(b) Has not been assessed more than \$500 in administrative penalties by the department in the three years immediately preceding the date of application.

(c) Does not have an outstanding fine assessed pursuant to this chapter which is in final order status and judicial reviews are exhausted.

(d) Does not have a disciplinary case pending with the department involving septic tank contracting.

(e) Has not been convicted of, found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which is related to the practice of contracting for the three years immediately preceding the date of application.

(f) Has completed 30 hours of master contractor course work approved by the department. At a minimum, this course work shall include training and testing of soil classification,

system design and theory, contractor ethics, system material and construction standards, and regulatory requirements.

(2) Completed applications for examination must be received by the department Onsite Sewage Program office at least 30 days prior to examination. In order to be complete, the application must have all appropriate spaces filled, be signed and dated by the applicant, be reviewed by the county health department where the applicant's primary place of business is located, and include a money order or sufficiently funded check in the correct amount.

(3) Eligible applicants must successfully complete an examination administered by the department. Minimum passing score for the examination shall be a 70 percent correct response to the examination questions.

(4) Successful applicants shall be issued a master septic tank contractor certificate after they have paid the registration fee

(5) Master septic tank contractor certificates shall be renewed only after the contractor has completed 12 classroom hours of approved instruction for each renewal cycle. At least 6 classroom hours must be in an approved master contractor course. Instructional time spent by a master septic tank contractor in providing department approved continuing education training shall receive credit as master contractor course hours. Application for renewal shall be made on form DH 4076, 10/96, Application for Septic Tank Contractor Registration Renewal, accompanied by the required supporting documentation and fees.

(a) A master septic tank contractor who only completes 6 classroom hours of approved instruction during the renewal cycle shall revert to registered septic tank contractor status and shall apply for renewal under rule 64E-6.021.

(b) Applications for renewal not submitted in a timely and complete manner shall revert to inactive status. Each application for renewal shall be considered filed in a timely manner if it is postmarked prior to close of business on the date of expiration of the certificate. Application for renewal of an inactive certificate shall be made on form DH 4076, 10/96, Application for Septic Tank Contractor Registration Renewal, accompanied by the required supporting documentation and fees.

(c) The department shall deny an application for renewal for an outstanding administrative penalty with the department where the penalty is final agency action.

(d) Master contractor certificates not renewed within one renewal cycle of the expiration date shall be considered null and void.

Specific Authority: 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(2),(3) and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011(4), 381.0012, 381.006, 381.0061, 381.0065, Part III 489.552, 489.553 FS. History: New 2-13-97, Formerly 10D-6.0725, Amended 2-3-98.

## **64E-6.021 ISSUANCE OF REGISTRATION CERTIFICATES AND RENEWAL**

(1) Certificates of registration shall be renewed only after information has been provided to the department that the contractor has successfully completed 6 classroom hours of approved instruction within the previous 12-month period regarding the public health and environmental effects of onsite sewage treatment and disposal systems and the proper installation and use of onsite sewage treatment and disposal systems. Such information shall be accompanied by necessary renewal fees and a completed renewal application on form DH 4076, Application for Septic Tank Contractor Registration Renewal, incorporated by reference in these rules.

(2) Any registration renewal application which for any reason is not submitted in a timely and complete manner shall revert to inactive status. Each application for renewal shall be considered filed in a timely manner if the application has been postmarked prior to the close of business on the date of expiration of the registration. If that date falls on a weekend or legal holiday, the date of expiration shall be the first working day after the expiration date on the certificate of registration.

(3) A registered contractor may request inactive status. Inactive registrations not renewed in two renewal cycles from the date of inactivation shall be considered null and void. Persons wishing to renew an inactive registration must make application on form DH 4076 and substantiate six classroom hours of approved instruction for each year the registration was considered inactive. Application must be accompanied by necessary exhibits and renewal fees.

(4) The department shall deny an application for renewal if there is any outstanding administrative penalty with the department where the penalty is final agency action and all judicial reviews are exhausted.

Specific Authority: 154.06, 381.0011, 381.006, 381.0065, 489.553 and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I 386, Part III 489 FS. History: New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.073.

## **64E-6.022 DISCIPLINARY GUIDELINES**

(1) The following guidelines shall be used in disciplinary cases, absent aggravating or mitigating circumstances and subject to other provisions of this section.

(a) Providing contracted services without obtaining registration from the department, failure to obtain a certificate of authorization for a firm which provides contracted services, acting under a name not registered or authorized by the department. First violation, letter of warning; repeat violation, \$500 fine, or revocation.

(b) Permit violations.

1. Contractor initiates work to install, modify, or repair a system when no permit has been issued by the department. A permit is issued after construction is started but prior to completion of the contracted work. No inspections are missed.

First violation, \$500 fine; repeat violation, \$500 fine and 90 day suspension or revocation.

2. Contracted work is completed without a permit having been issued, or no permit application is received until after contracted work was completed, resulting in missed inspection or inspections. First violation, \$1000 fine; repeat violation, revocation.

(c) Contracting with a delinquent registration. First violation, \$250 fine; repeat violation, \$500 fine or revocation.

(d) Failure to call for required inspections. First violation, \$250 fine; repeat violation, \$500 fine and 90 day suspension or revocation.

(e) False payment statements which are the result of assessing charges to a customer for work not performed. First violation, \$500 fine; repeat violation, \$500 fine and one year suspension or revocation.

(f) Misconduct by failure to reasonably honor warranty. First violation, \$500 fine; repeat violations, \$500 fine and one year suspension or revocation.

(g) Abandoning without good cause, a project in which the contractor is engaged or under contractual obligation to perform. First violation, \$500 fine; repeat violation, revocation.

(h) Aiding or abetting evasion of Chapter 489, FS. First violation, letter of warning; repeat violation, \$500 fine and one year suspension or revocation.

(i) Obtaining registration through fraud or misrepresentation. Revocation and \$500 fine.

(j) Convicted or found guilty of a crime relating to contracting. Use penalty for violation most closely resembling the act underlying the conviction; repeat violation, revocation.

(k) Practicing fraud or deceit, making misleading or untrue representations. First violation, \$500 fine; repeat violation, revocation.

(l) Gross negligence, incompetence, or misconduct which:

1. Causes no monetary or other harm to a customer, or physical harm to any person. First violation, \$500 fine; repeat violation, \$500 fine and 90 day suspension or revocation.

2. Causes monetary or other harm to a customer, or physical harm to any person. First violation, \$500 fine and 90 day suspension; repeat violation, \$500 fine and revocation.

(m) Operating a septage disposal service without a valid department operating permit. First violation, \$500 fine; repeat violation, revocation.

(n) Failure to properly treat or properly dispose of septage or food service sludge. First violation, \$500 fine per violation of rule 64E-6.010; repeat violation, revocation.

(o) Failure to maintain completed records of septage treatment and disposal activities. First violation, \$250 fine; repeat violation, \$500 fine and 90 day suspension or revocation.

(p) Installation, modification, or repair of an onsite sewage treatment and disposal system in violation of the standards of s. 381.0065 or s. 381.00655, F.S., or chapter 64E-6, F.A.C. First violation, \$500 per specific standard violated; repeat violation, 90 day suspension or revocation.

(q) Creation or maintenance of a sanitary nuisance as defined by s. 386.041, F.S. First violation, \$500 fine, repeat violation, 90 day suspension or revocation.

(r) Falsifying an inspection report or covering a system in violation of the standards of rule 64E-6.003. First violation, \$500 fine; repeat violation, 90 day suspension of master septic tank contractor privileges or revocation of registration.

(s) The absence of any violation from this section shall be viewed as an oversight, and shall not be construed as an indication that no penalty is to be assessed.

(2) Circumstances which shall be considered for the purposes of mitigation or aggravation of penalty shall include the following:

(a) Monetary or other damage to the registrant's customer, in any way associated with the violation, which damage the registrant has not relieved, as of the time the penalty is to be assessed.

(b) Actual job-site violations of this rule or conditions exhibiting gross negligence, incompetence or misconduct by the contractor, which have not been corrected as of the time the penalty is being assessed.

(c) The severity of the offense.

(d) The danger to the public.

(e) The number of repetitions of the offense.

(f) The number of complaints filed against the contractor.

(g) The length of time the contractor has practiced and registration category.

(h) The actual damage, physical or otherwise, to the customer.

(i) The effect of the penalty upon the contractor's livelihood.

(j) Any efforts at rehabilitation.

(k) Any other mitigating or aggravating circumstances.

(3) As used in this rule, a repeat violation is any violation on which disciplinary action is being taken where the same licensee had previously had disciplinary action taken against him or received a letter of warning in a prior case. This definition applies regardless of the chronological relationship of the violations and regardless of whether the violations are of the same or different subsections of this rule. The penalty given in the above list for repeat violations is intended to apply only to situations where the repeat violation is of a different subsection of this rule than the first violation. Where the repeat violation is the very same type of violation as the first violation, the penalty set out above will generally be increased over what is shown for repeat violations.

(4) Where several of the above violations shall occur in one or several cases being considered together, the penalties shall normally be cumulative and consecutive.

(5) The provisions of this section shall not be construed so as to prohibit civil action or criminal prosecution as provided in Part III of Chapter 489, FS, and Section 381.0065 FS, or for a violation of any provision of part I of Chapter 386, FS. No provision of this section shall be construed as to limit the ability of the department to enter into binding stipulation with the accused party per subsection 120.57(4), FS.

Specific Authority: 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553(2),(3) and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011(4), 381.0012, 381.006, 381.0061, 381.0065, 381.0067, Part I 386, Part III 489 FS. History: New 3-17-92, Amended 1-3-95, 2-13-97, Formerly 10D-6.0751, Amended 2-3-98.

## **64E-6.023 CERTIFICATION OF PARTNERSHIPS AND CORPORATIONS**

(1) Authorization of a corporation is only effective as to that corporation; subsidiaries or parents of authorized corporations must be separately authorized.

(a) Application for a certificate of authorization shall be made to the department on form DH 4077, Application for Certificate of Authorization, incorporated by reference into this rule, and shall be accompanied by all necessary exhibits and fees.

(b) Any certificate of authorization not renewed in a timely manner shall revert to inactive status. Applications for renewal shall be considered timely filed if the application has been post marked prior to the close of business on the date of expiration of the certificate. If that date falls on a weekend or legal holiday, the day of expiration shall be the first working day after the expiration date of the certificate. Inactive certificates not renewed within 2 years from the date of expiration shall be considered null and void.

(2) A registered contractor may not be the sole qualifying contractor for more than one business requesting a certificate of authorization.

(3) A business organization which loses its qualifying person shall have sixty (60) days from the date the qualifier terminated his affiliation within which to obtain another qualifying person. This period may be extended by the department upon a showing of good cause. During this period, the business organization may complete any existing contracts or continuing contracts, but may not undertake new contracts.

Specific Authority: 154.06, 381.0011, 381.006, 381.0065, 489.553 and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011, 381.0012, 381.0025, 381.006, 381.0061, 381.0065, 381.00655, 381.0066, 381.0067, Part I 386, Part III 489 FS. History: New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.076.

## **64E-6.024 FEES**

Specific Authority: 154.06(1), 381.0011(4),(13), 381.006, 381.0065(3)(a), 489.553, 489.554 and 489.557 FS. Law Implemented: 154.01, 381.001, 381.0011(4), 381.0012, 381.0025, 381.006(7), 381.0061, 381.0065, 381.0066, 489.553(2), 489.554, 489.555, 489.557, FS. History - New 10-25-88, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.077, Amended 11-19-97. Repealed 2-3-98. Editor's Note: See 64E-6.030.

### **STATUTORY CITATIONS**

**SECTIONS OF CHAPTER 381, 386 AND PART III, 489, FS.**

### **CHAPTER 381**

**381.0065 Onsite sewage treatment and disposal systems; regulation.--**

(1) **LEGISLATIVE INTENT.--**It is the intent of the Legislature that where a publicly owned or investor-owned sewerage system is not available, the department shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems under conditions as described in this section and rules adopted under this section. It is further the intent of the Legislature that the installation and use of onsite sewage treatment and disposal systems not adversely affect the public health or significantly degrade the groundwater or surface water.

(2) **DEFINITIONS.--**As used in ss. 381.0065-381.0067, the term: (a) "Available," as applied to a publicly owned or investor-owned sewerage system, means that the publicly owned or investor-owned sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:

1. For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property's drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.
2. For an establishment with an estimated sewage flow exceeding 1,000 gallons per day, a sewer line, force main, or lift station exists in a public easement or right-of-way that abuts the property of the establishment or is within 50 feet of the property line of the establishment as accessed via existing rights-of-way or easements.
3. For proposed residential subdivisions with more than 50 lots, for proposed commercial subdivisions with more than 5 lots, and for areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within one-fourth mile of the development as measured and accessed via existing easements or rights-of-way.
4. For repairs or modifications within areas zoned or used for an industrial or manufacturing purpose or its equivalent, a sewerage system exists within 500 feet of an establishment's or residence's sewer stub-out as measured and accessed via existing rights-of-way or easements.

(b) "Blackwater" means that part of domestic sewage carried off by toilets, urinals, and kitchen drains.

(c) "Domestic sewage" means human body waste and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from appurtenances at a residence or establishment.

(d) "Graywater" means that part of domestic sewage that is not blackwater, including waste from the bath, lavatory, laundry, and sink, except kitchen sink waste.

(e) "Florida Keys" means those islands of the state located within the boundaries of Monroe County.

(f) "Injection well" means an open vertical hole at least 90 feet in depth, cased and grouted to at least 60 feet in depth which is used to dispose of effluent from an onsite sewage treatment and disposal system.

(g) "Innovative system" means an onsite sewage treatment and disposal system that, in whole or in part, employs materials, devices, or techniques that are novel or unique and that have not

been successfully field-tested under sound scientific and engineering principles under climatic and soil conditions found in this state.

(h) "Lot" means a parcel or tract of land described by reference to recorded plats or by metes and bounds, or the least fractional part of subdivided lands having limited fixed boundaries or an assigned number, letter, or any other legal description by which it can be identified.

(i) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(j) "Potable water line" means any water line that is connected to a potable water supply source, but the term does not include an irrigation line with any of the following types of backflow devices:

1. For irrigation systems into which chemicals are not injected, any atmospheric or pressure vacuum breaker or double check valve or any detector check assembly.
2. For irrigation systems into which chemicals such as fertilizers, pesticides, or herbicides are injected, any reduced pressure backflow preventer.

(k) "Septage" means a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an onsite sewage treatment and disposal system.

(l) "Subdivision" means, for residential use, any tract or plot of land divided into two or more lots or parcels of which at least one is 1 acre or less in size for sale, lease, or rent. A subdivision for commercial or industrial use is any tract or plot of land divided into two or more lots or parcels of which at least one is 5 acres or less in size and which is for sale, lease, or rent. A subdivision shall be deemed to be proposed until such time as an application is submitted to the local government for subdivision approval or, in those areas where no local government subdivision approval is required, until such time as a plat of the subdivision is recorded.

(m) "Surface water" means a recognizable body of water, including swamp or marsh areas, bayheads, cypress ponds and sloughs, and natural or constructed ponds contained within a recognizable boundary. This does not include retention or detention areas designed to contain standing or flowing water for less than 72 hours after a rainfall.

(n) "Toxic or hazardous chemical" means a substance that poses a serious danger to human health or the environment.

### (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.--The department shall:

- (a) Adopt rules to administer ss. 381.0065-381.0067.
- (b) Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations associated with the construction, installation, maintenance, modification, abandonment, or repair of an onsite sewage treatment and disposal system for a residence or establishment with an estimated domestic sewage flow of 10,000 gallons or less per day which is not currently regulated under chapter 403.

(c) Develop a comprehensive program to ensure that onsite sewage treatment and disposal systems regulated by the department are sized, designed, constructed, installed, repaired, modified, abandoned, and maintained in compliance with this section and rules adopted under this section to prevent groundwater contamination and surface water contamination and to preserve the public health. The department is the final administrative interpretive authority regarding rule interpretation. In the event of a conflict regarding rule interpretation, the Division Director for Environmental Health of the department, or his or her designee, shall timely assign a staff person to resolve the dispute.

(d) Grant variances in hardship cases under the conditions prescribed in this section and rules adopted under this section.

(e) Permit the use of a limited number of innovative systems for a specific period of time, when there is compelling evidence that the system will function properly and reliably to meet the requirements of this section and rules adopted under this section.

(f) Issue annual operating permits under this section.

(g) Establish and collect fees as established under s. 381.0066 for services provided with respect to onsite sewage treatment and disposal systems.

(h) Conduct enforcement activities, including imposing fines, issuing citations, suspensions, revocations, injunctions, and emergency orders for violations of this section, part I of chapter 386, or part III of chapter 489 or for a violation of any rule adopted under this section, part I of chapter 386, or part III of chapter 489.

(i) Provide or conduct education and training of department personnel, service providers, and the public regarding onsite sewage treatment and disposal systems.

(j) Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of onsite sewage treatment and disposal systems within this state. Research fees collected under s. 381.0066(2)(k) must be used to develop and fund hands-on training centers designed to provide practical information about onsite sewage treatment and disposal systems to septic tank contractors, master septic tank contractors, contractors, inspectors, engineers, and the public and must also be used to fund research projects which focus on improvements of onsite sewage treatment and disposal systems, including use of performance-based standards and reduction of environmental impact. Research projects shall be initially approved by the technical advisory panel and shall be applicable to and reflect the soil conditions specific to Florida. Such projects shall be awarded through competitive negotiation, using the procedures provided in s. 287.055, to public or private entities that have experience in onsite sewage treatment and disposal systems in Florida and that are principally located in Florida. Research projects shall not be awarded to firms or entities that employ or are associated with persons who serve on either the technical advisory panel or the research review and advisory committee.

(k) Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system.

(l) Regulate septage-stabilization and disposal facilities not regulated by the Department of Environmental Protection.

(m) Permit and inspect portable or temporary toilet services.

(4) PERMITS; INSTALLATION; AND CONDITIONS.--A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department

may issue permits to carry out this section. A construction permit is valid for 18 months from the issuance date and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days from the date of issuance. An operating permit is valid for 1 year from the date of issuance and must be renewed annually. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. There is no fee associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements.

(a) Subdivisions and lots in which each lot has a minimum area of at least one-half acre and either a minimum dimension of 100 feet or a mean of at least 100 feet of the side bordering the street and the distance formed by a line parallel to the side bordering the street drawn between the two most distant points of the remainder of the lot may be developed with a water system regulated under s. 381.0062 and onsite sewage treatment and disposal systems, provided the projected daily domestic sewage flow does not exceed an average of 1,500 gallons per acre per day, and provided satisfactory drinking water can be obtained and all distance and setback, soil condition, water table elevation, and other related requirements of this section and rules adopted under this section can be met.

(b) Subdivisions and lots using a public water system as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily domestic sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(c) Notwithstanding the provisions of paragraphs (a) and (b), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the Department of Health, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed upon densities are reached. The department may consider assurances filed with the Department of Business and Professional Regulation under chapter 498 in determining the adequacy of the financial assurance required by this paragraph. In a subdivision regulated by this paragraph, the average daily domestic sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior

agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(d) Paragraphs (a) and (b) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewerage system is available. It is the intent of this paragraph not to allow development of additional proposed subdivisions in order to evade the requirements of this paragraph. The department shall report to the Legislature by February 1 of each odd-numbered year concerning the success in meeting this intent.

(e) Onsite sewage treatment and disposal systems must not be placed closer than:

1. Seventy-five feet from a private potable well.
2. Two hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of greater than 2,000 gallons per day.
3. One hundred feet from a public potable well serving a residential or nonresidential establishment having a total sewage flow of less than or equal to 2,000 gallons per day.
4. Seventy-five feet from surface waters.
5. Fifty feet from any nonpotable well.
6. Ten feet from any storm sewer pipe, to the maximum extent possible, but in no instance shall the setback be less than 5 feet.
7. Fifteen feet from the design high-water line of retention areas, detention areas, or swales designed to contain standing or flowing water for less than 72 hours after a rainfall or the design high-water level of normally dry drainage ditches or normally dry individual-lot stormwater-retention areas.

(f) All provisions of this section and rules adopted under this section relating to soil condition, water table elevation, distance, and other setback requirements must be equally applied to all lots, with the following exceptions:

1. Any residential lot that was platted and recorded on or after January 1, 1972, or that is part of a residential subdivision that was approved by the appropriate permitting agency on or after January 1, 1972, and that was eligible for an onsite sewage treatment and disposal system construction permit on the date of such platting and recording or approval shall be eligible for an onsite sewage treatment and disposal system construction permit, regardless of when the application for a permit is made. If rules in effect at the time the permit application is filed cannot be met, residential lots platted and recorded or approved on or after January 1, 1972, shall, to the maximum extent possible, comply with the rules in effect at the time the permit application is filed. At a minimum, however, those residential lots platted and recorded or approved on or after January 1, 1972, but before January 1, 1983, shall comply with those rules in effect on January 1, 1983, and those residential lots platted and recorded or approved on or after January 1, 1983, shall comply with those rules in effect at the time of such platting and recording or approval. In determining the maximum extent of compliance with current rules that is possible, the department shall allow structures and appurtenances thereto which were authorized at the time such lots were platted and recorded or approved.
2. Lots platted before 1972 are subject to a 50-foot minimum surface water setback and are not subject to lot size requirements. The projected daily flow for domestic onsite sewage treatment and disposal systems for lots platted before 1972 may not exceed:

a. Two thousand five hundred gallons per acre per day for lots served by public water systems as defined in s. 403.852.

b. One thousand five hundred gallons per acre per day for lots served by water systems regulated under s. 381.0062.

(g)

1. The department may grant variances in hardship cases which may be less restrictive than the provisions specified in this section. If a variance is granted and the onsite sewage treatment and disposal system construction permit has been issued, the variance may be transferred with the system construction permit, if the transferee files, within 60 days after the transfer of ownership, an amended construction permit application providing all corrected information and proof of ownership of the property and if the same variance would have been required for the new owner of the property as was originally granted to the original applicant for the variance. There is no fee associated with the processing of this supplemental information. A variance may not be granted under this section until the department is satisfied that:

a. The hardship was not caused intentionally by the action of the applicant;

b. No reasonable alternative exists for the treatment of the sewage; and

c. The discharge from the onsite sewage treatment and disposal system will not adversely affect the health of the applicant or the public or significantly degrade the groundwater or surface waters.

Where soil conditions, water table elevation, and setback provisions are determined by the department to be satisfactory, special consideration must be given to those lots platted before 1972.

2. The department shall appoint a variance review and advisory committee, which shall meet monthly to recommend agency action on variance requests. The board consists of the following:

a. The Division Director for Environmental Health of the department or his or her designee.

b. A representative from the county health departments.

c. A representative from the home building industry.

d. A representative from the septic tank industry.

e. A representative from the Department of Environmental Protection.

Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(h) A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage treatment system is available, or where a likelihood exists that the system will receive toxic, hazardous, or industrial waste. An existing onsite sewage treatment and disposal system may be repaired if a publicly owned or investor-owned sewerage system is not available within 500 feet of the building sewer stub-out and if system construction and operation standards can be met. This paragraph does not require publicly owned or investor-owned sewerage treatment systems to accept anything other than domestic wastewater.

1. A building located in an area zoned or used for industrial or manufacturing purposes, or its equivalent, when such building is served by an onsite sewage treatment and disposal system, must not be occupied until the owner or tenant has obtained written approval from the department. The department shall not grant approval when the proposed use of the system is to dispose of toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals.

2. Each person who owns or operates a business or facility in an area zoned or used for industrial or manufacturing purposes, or its equivalent, or who owns or operates a business that has the potential to generate toxic, hazardous, or industrial wastewater or toxic or hazardous chemicals, and uses an onsite sewage treatment and disposal system that is installed on or after July 5, 1989, must obtain an annual system operating permit from the department. A person who owns or operates a business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, need not obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(i) An onsite sewage treatment and disposal system for a single-family residence that is designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-designed systems must be limited to those necessary to ensure that such systems do not adversely affect the public health or significantly degrade the groundwater or surface water. Such performance criteria shall include consideration of the quality of system effluent, the proposed total sewage flow per acre, wastewater treatment capabilities of the natural or replaced soil, water quality classification of the potential surface-water-receiving body, and the structural and maintenance viability of the system for the treatment of domestic wastewater. However, performance criteria shall address only the performance of a system and not a system's design.

2. The technical review and advisory panel shall assist the department in the development of performance criteria applicable to engineer-designed systems. Workshops on the development of the rules delineating such criteria shall commence not later than September 1, 1996, and the department shall advertise such rules for public hearing no later than October 1, 1997.

3. A person electing to utilize an engineer-designed system shall, upon completion of the system design, submit such design, certified by a registered professional engineer, to the county health department. The county health department may utilize an outside consultant to review the engineer-designed system, with the actual cost of such review to be borne by the applicant. Within

5 working days after receiving an engineer-designed system permit application, the county health department shall request additional information if the application is not complete. Within 15 working days after receiving a complete application for an engineer-designed system, the county health department either shall issue the permit or, if it determines that the system does not comply with the performance criteria, shall notify the applicant of that determination and refer the application to the department for a determination as to whether the system should be approved, disapproved, or approved with modification. The department engineer's determination shall prevail over the action of the county health department. The applicant shall be notified in writing of the department's determination and of the applicant's rights to pursue a variance or seek review under the provisions of chapter 120.

4. The owner of an engineer-designed performance-based system must obtain an annual system operating permit from the department. The department shall inspect the system at least annually and may collect system-effluent samples if appropriate to determine compliance with the performance criteria. The fee for the annual operating permit shall be collected beginning with the second year of system operation.

5. If an engineer-designed system fails to properly function or fails to meet performance standards, the system shall be re-engineered, if necessary, to bring the system into compliance with the provisions of this section.

(j) An innovative system may be approved in conjunction with an engineer-designed site-specific system which is certified by the engineer to meet the performance-based criteria adopted by the department.

(k) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and which considers water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The department shall require effluent from onsite sewage treatment and disposal systems to meet advanced waste treatment concentrations, as defined in s. 403.086.

(l) No product sold in the state for use in onsite sewage treatment and disposal systems may contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. In the event a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(m) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by rule unless the

department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(n) The department shall appoint a research review and advisory committee, which shall meet at least semiannually. The committee shall advise the department on directions for new research, review and rank proposals for research contracts, and review draft research reports and make comments. The committee is comprised of:

1. A representative of the Division of Environmental Health of the Department of Health.
2. A representative from the septic tank industry.
3. A representative from the home building industry.
4. A representative from an environmental interest group.
5. A representative from the State University System, from a department knowledgeable about onsite sewage treatment and disposal systems.
6. A professional engineer registered in this state who has work experience in onsite sewage treatment and disposal systems.
7. A representative from the real estate profession.
8. A representative from the restaurant industry.
9. A consumer.

Members shall be appointed for a term of 3 years, with the appointments being staggered so that the terms of no more than four members expire in any one year. Members shall serve without remuneration, but may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(o) An application for an onsite sewage treatment and disposal system permit shall be completed in full, signed by the owner or the owner's authorized representative, or by a contractor licensed under chapter 489, and shall be accompanied by all required exhibits and fees. No specific documentation of property ownership shall be required as a prerequisite to the review of an application or the issuance of a permit. The issuance of a permit does not constitute determination by the department of property ownership.

(p) The department may not require any form of subdivision analysis of property by an owner, developer, or subdivider prior to submission of an application for an onsite sewage treatment and disposal system.

(q) Nothing in this section limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.--

(a) Department personnel who have reason to believe noncompliance exists, may at any reasonable time, enter the premises permitted under ss. 381.0065-381.0066, or the business premises of any septic tank contractor or master septic tank contractor registered under part III of chapter 489, or any premises that the department has reason to believe is being operated or maintained not in compliance, to determine compliance with the provisions of this section, part I of chapter 386, or part III of chapter 489 or rules or standards adopted under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489. As used in this paragraph, the term "premises" does not include a residence or private building. To gain entry to a residence or private building, the department must obtain permission from the owner or occupant or secure an inspection warrant from a court of competent jurisdiction.

(b)

1. The department may issue citations that may contain an order of correction or an order to pay a fine, or both, for violations of ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 or the rules adopted by the department, when a violation of these sections or rules is enforceable by an administrative or civil remedy, or when a violation of these sections or rules is a misdemeanor of the second degree. A citation issued under ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489 constitutes a notice of proposed agency action.
2. A citation must be in writing and must describe the particular nature of the violation, including specific reference to the provisions of law or rule allegedly violated.
3. The fines imposed by a citation issued by the department may not exceed \$500 for each violation. Each day the violation exists constitutes a separate violation for which a citation may be issued.
4. The department shall inform the recipient, by written notice pursuant to ss. 120.569 and 120.57, of the right to an administrative hearing to contest the citation within 21 days after the date the citation is received. The citation must contain a conspicuous statement that if the recipient fails to pay the fine within the time allowed, or fails to appear to contest the citation after having requested a hearing, the recipient has waived the recipient's right to contest the citation and must pay an amount up to the maximum fine.
5. The department may reduce or waive the fine imposed by the citation. In determining whether to reduce or waive the fine, the department must consider the gravity of the violation, the person's attempts at correcting the violation, and the person's history of previous violations including violations for which enforcement actions were taken under ss. 381.0065-381.0067, part I of chapter 386, part III of chapter 489, or other provisions of law or rule.
6. Any person who willfully refuses to sign and accept a citation issued by the department commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
7. The department, pursuant to ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, shall deposit any fines it collects in the county health department trust fund for use in providing services specified in those sections.
8. This section provides an alternative means of enforcing ss. 381.0065-381.0067, part I of chapter 386, and part III of chapter 489. This section does not prohibit the department from enforcing ss. 381.0065-381.0067, part I of chapter 386, or part III of chapter 489, or its rules, by any other means. However, the department must elect to use only a single method of enforcement for each violation.

**History.**--ss. 1, 2, 3, 4, 5, 6, ch. 75-145; s. 72, ch. 77-147; s. 1, ch. 77-174; ss. 1, 2, ch. 77-308; s. 1, ch. 78-430; s. 1, ch. 79-45; s. 1, ch. 82-10; s. 37, ch. 83-218; ss. 43, 46, ch. 83-310; s. 1, ch. 84-119; s. 4, ch. 85-314; s. 5, ch. 86-220; s. 14, ch. 89-324; s. 26, ch. 91-297; ss. 1, 10, 11, ch. 93-151; s. 40, ch. 94-218; s. 352, ch. 94-356; s. 1033, ch. 95-148; ss. 1, 3, ch. 96-303; s. 116, ch. 96-410; s. 181, ch. 97-101; s. 21, ch. 97-237.

**Note.**--Former s. 381.272.

**381.00655 Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.--**

(1)

(a) The owner of a properly functioning onsite sewage treatment and disposal system, excluding an approved onsite graywater system, must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the publicly owned or investor-owned sewerage system that the system is available for connection. The publicly owned or investor-owned sewerage system must notify the owner of the onsite sewage treatment and disposal system of the availability of the central sewerage system. No less than 1 year prior to the date the sewerage system will become available, the publicly owned or investor-owned sewerage system shall notify the affected owner of the onsite sewage treatment and disposal system of the anticipated availability of the sewerage system and shall also notify the owner that the owner will be required to connect to the sewerage system within 1 year of the actual availability. The owner shall have the option of prepaying the amortized value of required connection charges in equal monthly installments over a period not to exceed 2 years from the date of the initial notification of anticipated availability. Nothing in this section shall operate to impair contracts or other binding obligations relating to payment schedules in existence as of October 1, 1993. Nothing in this paragraph limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(b) The owner of an onsite sewage treatment and disposal system that needs repair or modification to function in a sanitary manner or to comply with the requirements of ss. 381.0065-381.0067 or rules adopted under those sections must connect to an available publicly owned or investor-owned sewerage system within 90 days after written notification from the department. In hardship cases, upon request of the owner, the department may approve an extension of not more than 90 days for sewerage connection. The department may approve only one extension. This paragraph does not authorize the owner of the onsite sewage treatment and disposal system to create or maintain a sanitary nuisance.

(2) The provisions of subsection (1) or any other provision of law to the contrary notwithstanding:

(a) The local governing body of the jurisdiction in which the owner of the onsite sewage treatment and disposal system resides may provide that any connection fee charged under this section by an investor-owned sewerage system may be paid without interest in monthly installments, over a period of time not to exceed 5 years from the date the sewerage system becomes available if it determines that the owner has demonstrated a financial hardship. The local governing body shall establish criteria for making this determination which take into account the owner's net worth, income, and financial needs.

(b) A publicly owned or investor-owned sewerage system may, with the approval of the department, waive the requirement of mandatory onsite sewage disposal connection if it determines that such connection is not required in the public interest due to public health considerations.

**History.**--s. 2, ch. 93-151.

**CHAPTER 386 PARTICULAR CONDITIONS AFFECTING PUBLIC HEALTH**

## PART I SANITARY NUISANCES

### 386.01 Sanitary nuisance.

A sanitary nuisance is the commission of any act, by an individual, municipality, organization, or corporation, or the keeping, maintaining, propagation, existence, or permission of anything, by an individual, municipality, organization, or corporation, by which the health or life of an individual, or the health or lives of individuals, may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused.

**History.**— s. 1, ch. 4346, 1895; GS 1153; RGS 2157; CGL 3386.

### 386.02 Duty of Department of Health and Rehabilitative Services.

The Department of Health and Rehabilitative Services, upon request of the proper authorities, or of any three responsible resident citizens, or whenever it may seem necessary to the department, shall investigate the sanitary condition of any city, town, or place in the state; and if, upon examination, the department shall ascertain the existence of any sanitary nuisance as herein defined, it shall serve notice upon the proper party or parties to remove or abate the said nuisance or, if necessary, proceed to remove or abate the said nuisance in the manner provided in s. 823.01.

**History.**— s. 11, ch. 4346, 1895; GS 1154; RGS 2158; CGL 3387; ss. 19, 35, ch. 69-106; s. 148, ch. 77-147.

### 386.03 Notice to remove nuisances; authority of Department of Health and Rehabilitative Services and local health authorities.

(1) The Department of Health and Rehabilitative Services, upon determining the existence of anything or things herein declared to be nuisances by law, shall notify the person or persons committing, creating, keeping, or maintaining the same, to remove or cause to be removed, the same within 24 hours, or such other reasonable time as may be determined by the department, after such notice be duly given.

(2) If the sanitary nuisance condition is not removed by such person or persons within the time prescribed in said notice, the department, its agents or deputies or local health authorities, may within the county where the nuisance exists, remove, cause to remove, or prevent the continuing sanitary nuisance condition in the following manner:

(a) Undertake required correctional procedures, including the removal of same if necessary; the cost or expense of such removal or correctional procedures shall be paid by the person or persons committing, creating, keeping, or maintaining such nuisances; and if the said cost and expense thus accruing shall not be paid within 10 days after such removal, the same shall be collected from the person or persons committing, creating, keeping, or maintaining such nuisances, by suit at law; but this paragraph shall not authorize the department to alter, change, demolish, or remove any machinery, equipment, or

facility designed or used for the processing or disposing of liquid or smoke effluent of a manufacturing plant.

(b) Institute criminal proceedings in the county court in the jurisdiction of which the condition exists against all persons failing to comply with notices to correct sanitary nuisance conditions as provided in this chapter.

(c) Institute legal proceedings authorized by the department as set forth in s. 381.0012.

(d) Institute administrative proceedings authorized by the department as set forth in s. 381.0061.

**History.**— s. 12, ch. 4346, 1895; GS 1155; RGS 2159; CGL 3388; s. 1, ch. 63-64; ss. 19, 35, ch. 69-106; s. 1, ch. 77-119; s. 149, ch. 77-147; s. 5, ch. 80-351; s. 53, ch. 91-297.

### 386.041 Nuisances injurious to health.

(1) The following conditions existing, permitted, maintained, kept, or caused by any individual, municipal organization, or corporation, governmental or private, shall constitute prima facie evidence of maintaining a nuisance injurious to health:

(a) Untreated or improperly treated human waste, garbage, offal, dead animals, or dangerous waste materials from manufacturing processes harmful to human or animal life and air pollutants, gases, and noisome odors which are harmful to human or animal life.

(b) Improperly built or maintained septic tanks, water closets, or privies.

(c) The keeping of diseased animals dangerous to human health.

(d) Unclean or filthy places where animals are slaughtered.

(e) The creation, maintenance, or causing of any condition capable of breeding flies, mosquitoes, or other arthropods capable of transmitting diseases, directly or indirectly to humans.

(f) Any other condition determined to be a sanitary nuisance as defined in s. 386.01.

(2) The Department of Health and Rehabilitative Services, its agents and deputies, or local health authorities are authorized to investigate any condition or alleged nuisance in any city, town, or place within the state, and if such condition is determined to constitute a sanitary nuisance, they may take such action to abate the said nuisance condition in accordance with the provisions of this chapter.

**History.**— s. 2, ch. 63-64; ss. 19, 35, ch. 69-106; s. 150, ch. 77-147.

### 386.051 Nuisances injurious to health, penalty.

Any person found guilty of creating, keeping, or maintaining a nuisance injurious to health shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

**History.**— s. 2, ch. 63-64; s. 337, ch. 71-136.

## CHAPTER 489, PART III, FS. SEPTIC TANK CONTRACTING

### 489.551 Definitions.—

As used in this part:

(1) "Department" means the <sup>1</sup> Department of Health and Rehabilitative Services.

(2) "Master septic tank contractor" means a septic tank contractor whose services are unlimited in the septic tank trade who has had at least 3 years' experience as a Florida-registered septic tank contractor and who has the experience, knowledge, and skills to install, maintain, repair, close repairs of, and alter all types of onsite sewage treatment and disposal systems, to design onsite sewage treatment and disposal systems, where not prohibited by law, to perform and submit soil evaluations, when determined to meet site-evaluation expertise established by rule, and to use materials and items used in the installation and maintenance of all types of onsite sewage treatment and disposal systems.

(3) "Onsite sewage treatment and disposal system" means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a dosing tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

(4) "Septic contractor" means a contractor who has the experience, knowledge, and skill to install, maintain, repair, alter, perform site evaluations for repairs, when determined to meet site-evaluation expertise established by rule, and use material and items used in the installation and maintenance of all kinds of onsite sewage treatment and disposal systems.

**History.**—ss. 1, 10, ch. 87-310; s. 4, ch. 91-429; s. 7, ch. 93-151; s. 5, ch. 96-303.

<sup>1</sup> **Note.**—The Department of Health and Rehabilitative Services was redesignated as the Department of Children and Family Services by s. 5, ch. 96-403, and the Department of Health was created by s. 8, ch. 96-403.

#### **489.552 Registration required.—**

A person shall not hold himself or herself out as a septic tank contractor or a master septic tank contractor in this state unless he or she is registered by the department in accordance with the provisions of this part. However, nothing in this part prohibits any person licensed pursuant to s. 489.105(3)(m) in this state from engaging in the profession for which he or she is licensed.

**History.**—ss. 2, 10, ch. 87-310; s. 4, ch. 91-429; s. 6, ch. 96-303.

#### **489.553 Administration of part; registration qualifications; examination.—**

(1) Each person desiring to be registered pursuant to this part shall apply to the department in writing upon forms prepared and furnished by the department.

(2) The department shall administer, coordinate, and enforce the provisions of this part, provide qualifications for applicants, administer the examination for applicants, and be responsible for the granting of certificates of registration to qualified persons.

(3) The department shall adopt reasonable rules, including, but not limited to, rules which establish ethical standards of practice, and may amend or repeal the same in accordance with the Administrative Procedure Act.

(4) To be eligible for registration by the department as a septic tank contractor, the applicant must:

(a) Be of good moral character.

(b) Pass an examination approved by the department which demonstrates that the applicant has a fundamental knowledge of the state laws relating to the installation and maintenance of onsite sewage treatment and disposal systems.

(5) To be eligible for registration by the department as a master septic tank contractor, the applicant must:

(a) Have been a registered septic tank contractor in Florida for at least 3 years.

(b) Take and complete, to the satisfaction of the department, a minimum of 30 hours of approved coursework.

(c) Pass an examination approved by the department which demonstrates that the applicant has advanced knowledge relating to the installation and maintenance of onsite sewage treatment and disposal systems, including, but not limited to, the fundamental knowledge required to close residential repair jobs, design systems, and perform soil evaluations, when determined to meet site-evaluation expertise established by rule.

(d) Be reviewed by the department for any major infractions of this chapter or other law relating to onsite sewage treatment and disposal.

(6) The department shall provide each applicant for registration pursuant to this part with a copy of this part and any rules adopted under this part. The department may also prepare and disseminate such other material and questionnaires as it deems necessary to effectuate the registration provisions of this part.

**History.**—ss. 3, 10, ch. 87-310; s. 4, ch. 91-429; s. 8, ch. 93-151; s. 7, ch. 96-303.

#### **489.554 Registration renewal.—**

The department shall prescribe by rule the method for renewal of annual registration, which shall include continuing education requirements of not less than 6 classroom hours annually for septic tank contractors and not less than 12 classroom hours annually for master septic tank contractors. The 12 classroom hours of continuing education required for master septic tank contractors may include the 6 classroom hours required for septic tank contractors, but at a minimum must include 6 classroom hours of approved master septic tank contractor coursework.

**History.**—ss. 4, 10, ch. 87-310; s. 55, ch. 91-297; s. 4, ch. 91-429; s. 8, ch. 96-303.

#### **489.555 Certification of partnerships and corporations.—**

(1) The practice of or the offer to practice septic tank contracting services by registrants through a corporation or partnership offering septic tank contracting services to the public through registrants under this chapter as agents, employers, officers, or partners is permitted, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as septic tank contractors or master septic

tank contractors in this state are registered as provided by this part, and further provided that the corporation or partnership has been issued a certificate of authorization by the department as provided in this section. Nothing in this section shall be construed to mean that a certificate of registration to practice septic tank contracting shall be held by a corporation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing septic tank contracting be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering septic tank contracting services to the public, except that when an individual is practicing septic tank contracting in his or her own given name, he or she shall not be required to register under this section.

(3) Each certification of authorization shall be renewed every 2 years. Each partnership and corporation certified under this section shall notify the department within 1 month of any change in the information contained in the application upon which the certification is based.

(4) Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered septic tank contractor or master septic <sup>I</sup> tank contractor.

**History.**—ss. 5, 10, ch. 87-310; s. 4, ch. 91-429; s. 10, ch. 96-303.

<sup>I</sup> **Note.**—The word "tank" was inserted by the editors.

#### **489.556 Suspension or revocation of registration.—**

A certificate of registration may be suspended or revoked upon a showing that the registrant has:

(1) Violated any provision of this part.

(2) Violated any lawful order or rule rendered or adopted by the department.

(3) Obtained his or her registration or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.

(4) Been found guilty of gross misconduct in the pursuit of his or her profession.

**History.**—ss. 6, 10, ch. 87-310; s. 4, ch. 91-429; s. 11, ch. 96-303.

#### **489.558 Penalties and prohibitions.—**

(1) Any person who violates any provision of this part commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The department may deny a registration if it determines that an applicant does not meet all requirements of this part or has violated any provision of this part. Any applicant aggrieved by such denial shall be entitled to a hearing, after reasonable notice thereof, upon filing a written request for such hearing in accordance with chapter 120.

## FREQUENTLY ASKED QUESTIONS

### **1. In Florida, who is allowed to engage in septic tank contracting?**

a. A homeowner doing work at his or her owner-occupied single family home only.

b. A state plumber, licensed pursuant to section 489.105(3)(m), FS.

c. A registered or master septic tank contractor pursuant to Part III of Chapter 489, FS, and Part III of Rule 64E-6, FAC.

### **2. Is experience under a licensed plumber equivalent to that obtained under a registered or master septic tank contractor?**

Yes, provided the applicant can document that septic tank contracting services were rendered under the supervision of a state plumber licensed pursuant to section 489.105 (3)(m), FS.

### **3. Is a state licensed plumber exempt from septic tank installation permits, inspections and other Rule 64E-6, FAC, requirements?**

No. The state licensed plumber is only exempt from the septic tank contractor registration requirement. All other requirements found in Rule 64E-6, FAC and section 381.0065 - 381.00655, FS, pertaining to the installation, repair, modification, maintenance, and septic tank pumping and abandonment, must be met.

### **4. Is out-of-state septic tank work experience acceptable to qualify for the septic tank contractor registration examination?**

Out-of-state work experience on a year for year basis shall be accepted for any applicant who demonstrates that they hold a current statewide license for septic tank contracting which was issued upon satisfactory completion of an equivalent examination and required continuing education courses for renewal. For purposes of this section, an equivalent examination means that at a minimum, the following topics were tested and passed: system location and installation; site evaluation criteria; system size determinations; disposal of septage; construction standards for drainfield systems and U.S. Department of Agriculture soil textural classification system. A person employed by and under the supervision and control of such a licensed contractor shall be granted up to two years of related work experience.

### **5. Is septic tank work experience documented with IRS Form 1099 acceptable to qualify for the septic tank contractor registration examination?**

No. IRS Form 1099 specifically documents non-employee compensation for services rendered. This type of work experience represents an illegal subcontractual relationship between a registered septic tank contractor and an individual who is not allowed under Florida rules and statutes to perform septic tank contracting activities.

### **6. When and where are registered or master septic tank contractor registration examinations offered?**

Examinations are offered in Tallahassee and Orlando on the last Monday of each month (excluding December and holidays). Examinations are scheduled from 9:00 AM to 12:00 Noon.

### **7. Is there a course requirement prior to application for septic tank contractor registration examinations?**

Only when you are applying for a master contractor registration.

### **8. Are there any penalties for individuals or companies who offer or provide septic tank contracting services without a registration and/or an authorization?**

Yes. Individuals and companies may be subject to administrative actions, citations, fines and other legal actions, if services are performed or offered without the benefit of a registration and/or an authorization.

### **9. Can a registered or master septic tank contractor authorize more than one business?**

No. A registered or master septic tank contractor may not be the sole qualifier for more than one septic tank contracting business requiring a certificate of authorization.

### **10. Can an authorized septic tank business advertise under multiple (more than one) business names?**

No. An authorized septic tank business may only advertise under the business name authorized with the department.

### **11. Can an authorized septic tank contracting business continue to operate after losing its sole qualifying contractor?**

An authorized business organization which loses its qualifying contractor shall have 60 days from the date the qualifier terminated his or her affiliation within which to obtain another qualifying contractor. During this time, the authorized business may not undertake any new contracts. Existing and ongoing (cyclical) contracts executed by the registered septic tank contractor prior to his or her disassociation with the authorized business may be completed during this time.

### **12. Who offers continuing education courses required for registration renewals?**

Continuing education courses are typically offered by the Florida Septic Tank Association, the Florida Environmental Health Association, County Health Departments and other private associations and business organizations. You may contact the Bureau of Water and Onsite Sewage Programs for listings of approved continuing education courses.

### **13. Can a registered or master septic tank contractor be exempt from the certificate of business authorization?**

Yes. A registered or master septic tank contractor offering septic tank contracting under his given name as a sole proprietorship is exempt from the business authorization certificate. Example: John Doe Septic, with John Doe as the only owner would not be required for filing. If John Doe's wife Jane were also an owner, a fictitious name would need to be filed and a certificate of authorization would be required. Also, John's Septic or Doe's Septic would require the filing of a fictitious name and a certificate of authorization. **If you are exempt from filing a fictitious name with the Department of State (DOS), you may submit documentation of your DOS fictitious name exemption, and request exemption from the department's certificate of authorization.**

Other questions pertaining to septic tank contractor registration procedures may be addressed to:

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