



## **Town of Rochester Board of Health**

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### **RULES AND REGULATIONS**

The Rochester Board of Health is responsible for the enforcement of the State Environmental Code, Title 5: Minimum Requirements for the Subsurface Disposal of Sanitary Sewage. These regulations have been promulgated to provide minimum standards for the protection of public health and the environment. Specific, identifiable local conditions may require more stringent regulations to protect the public health and environmental interests of the residents of Rochester.

#### **Procedure to obtain a disposal system construction permit**

1. Applicant contacts engineer to schedule percolation test with the Board of Health.
2. The engineer shall submit 4 copies of the proposed septic plan along with a completed application for a disposal system construction permit to the Board of Health.
3. Board of Health has 30 days to review the septic plan. Once the plan has been reviewed the applicant shall be notified by means of a check off sheet requesting the following information:
  - a. Well water analysis sheet
  - b. Conservation Commission Determination of Applicability
  - c. Signature of the installer
  - d. Name of licensed septic installer
4. The applicant shall have a licensed well driller obtain a well permit from the Board of Health office.
5. The licensed septic installer shall pull the disposal system construction permit to install the septic system. The Regional Sanitarian/Board of Health shall do excavation and final inspections at their discretion.
6. The professional engineer shall submit an asbuilt after the septic system has been completed. The asbuilt plan shall be stamped and certified by the design engineer. The plan shall have both the design elevations and asbuilt elevations.

Added March 19, 1997 Published March 6, 1997

## **15:100 General Provisions**

All new construction shall be in compliance with Title V and the Rochester Board of Health Rules and Regulations.

### **15.104 Percolation Rates**

Percolation test shall be performed so as to document the permeability of the soil between the proposed bottom of the leaching facility and a depth four feet below. Accordingly, percolation tests for new construction must be performed in test holes where the bottom of the test hole is above the determined maximum groundwater elevation. Maximum groundwater shall be determined based on the Title V requirements of soil mottling.

Please note that percolation tests results that were obtained with soil evaluation criteria as described in 15.101 of Title V prior to the change of these regulations will be honored indefinitely. This allows the engineer who conducted the percolation test to design the septic plan. The engineer shall refer back to the Regional Sanitarian for any procedural aspects that may result.

Prior to any percolation tests being conducted, wetlands shall be flagged by a wetland delineator and approved by the Conservation Commission.

Amended May 6, 2009 Published May 14, & 21, 2009

### **15. 105 Dewatered Percolation Tests**

Dewatered percolation tests are prohibited for new construction.

### **15.203 System Sewage Flow Design Criteria**

Septic systems that will be constructed shall be designed with a minimum flow capacity of 400 gallons per day for a three-bedroom home.

### **15.211 Minimum Setback Distances**

#### **Well locations**

For new construction a well shall be located one hundred and fifty (150) feet from the soil absorption system and 50 feet from the edge of the bordering vegetative wetland. The location of bordering vegetative wetland shall be approved by the Conservation Commission and documented in the Order of Conditions. For repairs or upgrades whenever practical and to the maximum extent feasible the soil absorption system should be located 150 feet from a well but in no case less than 100 feet from a well without a variance from the Board of Health

#### **Wetland Setback Regulation**

For new construction the minimum setback to wetlands, watercourses, bordering vegetative wetlands shall be one hundred and fifty (150) feet from the soil absorption system. For repairs or upgrades, whenever practical and to maximum extent feasible, the soil absorption system should be located 150 feet from a wetlands, watercourse,

bordering vegetative wetland, but in no case less than 50 feet from a wetlands, watercourse, bordering vegetative wetlands without a variance from the Board of Health. Filing or replicating wetlands in order to attain minimal required setback is prohibited.

Amended March 19, 1997 Published February 27 and March 6, 1997

#### **15.220 Separation of Plans and Specifications**

Before any definitive subdivision plan can be submitted to the Board of Health, four (4) test pits shall be performed on every proposed lot. The percolation test must be performed according to Title V, Section 15.104 and 15.105 and the Rochester Rules and Regulations. Before any percolation test can be performed for new construction, any wetland line must be delineated and approved by the Conservation Commission. Setback requirements must also be met according to the Rochester Rules and Regulations for proposed well locations.

Added May 6, 2009 Published May 14, & 21, 2009

#### **15.232 Distribution Box**

All distribution boxes eight holes or less shall be H-20 loading and shall be placed on a six inch compacted stone bed and laid level on this base.

#### **15.245 Soil Absorption System Siting Requirements**

New systems shall not be sited in areas with percolation rates slower than 20 minutes per inch.

#### **15.248 Reserve Areas**

Trench systems shall not have reserve areas located in-between primary system areas.

#### **15.291 Shared Systems**

Shared system as defined in Title V, Section 15.002 is a system sited, designed and constructed, (in accordance with 310 CMR 15.100 through 15.293) and for more than one (1) dwelling or condominium unit on a single on-site septic system.

A single shared septic system shall not be allowed for new construction without the use of secondary treatment. Shared systems shall be designed in accordance with 15.290 through 15.293.

Amended May 18, 2005

#### **15.292 New Construction or Increased Flow to Existing and Division of a Facility Using Shared Systems**

All shared systems are required to have a backup generator to supply power to wastewater treatment plant during power failures. System owner shall provide the Board of Health with a contact name and phone number of a person responsible for maintenance

plan. In addition, to ensure proper operation of the generator, the applicant shall file a statement yearly containing the maintenance plan.

15. 292 : Added May 6, 2009 Published May 14, & 21, 2009

### **15.302 Criteria for Inspection**

The determination of groundwater for Title V inspections shall be determined by soil evaluations by a DEP approved soil evaluator if in the opinion of the Board of Health or its agent that actual groundwater cannot be determined through available records. Any mottles observed during the groundwater observation shall be noted for the record and used as a groundwater elevation if higher than the observed groundwater.

### **15.303 Systems Failing to Protect Public Health and Safety and the Environment**

All cesspools and privy located in the Town of Rochester not found to be failing are considered non-conforming systems and shall be upgraded to meet the standards set forth in Title V at the time of real estate transfer.

All cesspools and privies are deemed non-conforming subsurface wastewater disposal systems and then found to be properly functioning shall be temporarily grandfathered until the time of real estate transfer. At the time of real estate transfer a septic tank meeting Title V requirements shall be installed between the dwelling and cesspool provided that the cesspool meets the Title V inspection criteria.

### **15.340 Approval of Title V Inspectors**

1. All persons conducting Title V inspections as per 310 CMR 15.302 in the Town of Rochester shall be permitted by the Rochester Board of Health.
2. Title V inspectors licenses may have their license to do Title V inspections suspended or revoked in the Town of Rochester after a public hearing.

### **15.411 Process for seeking a local variance/waiver from the Rochester Board of Health**

1. Every request for a variance/waiver shall be in writing and make reference to the specific provision for which a variance is sought. All variance requests shall be written directly on the proposed septic plan.
2. Four (4) copies of each plan along with a complete disposal construction permit and a letter of variance request shall be submitted to the Board of Health for review.
3. Upon completion of review the Sanitarian shall contact the engineer and schedule a hearing date.

4. The engineer shall notify affected abutters by certified mail at his/her expense if the variance request is for property line or abutting well setbacks. Notices shall be mailed at least 10 days before the Board of Health meeting at which the variance waiver request will be heard.
5. The Board of Health shall have the authority to vary the application of any provision of its rules and regulations promulgated under General Laws Chapter 111, Section 31, as provided for in this regulation. No such variance shall be issued unless the Board of Health finds:
  - a. That the enforcement of these regulations cause a substantial hardship, and in the case of new construction, will deprive the applicant of substantially all the beneficial use of the property.
  - b. That the applicant has demonstrated that the proposed variance can be granted and still provide adequate protection to all the interests protected by these regulations, including without limitation, the protection of groundwater quality and wetland resources.
6. All variances granted by the Board of Health shall be in writing and shall be referred to in any permit issued by the Board in reliance thereon. The Board may impose such conditions on the grant of a variance, as it deems proper.

### **Private Well Testing:**

All drinking water wells associated with new construction shall be located twenty-five (25) feet off of the property line, one hundred (100) feet apart from each other, and a minimum of twenty-five (25) feet off of any structure or dwelling. The wells shall not be located in any areas of rights-of- ways.

Added May 6, 2009 Published May 14 & 21, 2009

According to the Department of Environmental Protection “Guidelines for Private Wells” all new wells shall be tested initially by a certified laboratory for total coliform, potability, and volatile organic compounds (vocs), and then retested every ten years. If the homeowner detects an unpleasant or unnatural taste or odor, the well should be tested immediately.

Prior to a transfer of property made to someone other than a family member, (see definition below) property owners will be required to have wells servicing the dwelling tested by a certified laboratory for total coliform, potability, and volatile organic compounds.

Amended May 6, 2009 Published May 14 & 21, 2009

Immediate family member as defined in the Massachusetts Department of Environmental Protection – Septic Systems/Title V: Regulations Policies, Technical Guidelines on Residential Property Transfers Between Family Members. According to the definition in July of 2004, Massachusetts General Laws (Chapter 21A, Section 13) family members/and or relationships were defined as follows: between current spouses; between parents and their children; full siblings and where the grantor transfers the real property to be held in a revocable or irrevocable trust, where at least one of the designated beneficiaries is of the full degree of relationship to the grantor.

Amended October 14, 2005

### **Monitoring Wells**

Applicants intending to install monitoring wells for hydro geological study purposes by means of well drilling rigs shall submit an engineered site plan, including but not limited to wetland line as determined by any necessary filing to the Conservation Commission to the Board of Health and obtain a well permit for each well that is proposed to be installed.

Added May 6, 2009 Published May 14 & 21, 2009

### **Grandfathering, Lapsed Permit**

Each of the substantive provisions of these regulations and any of the amendments thereto shall be effective upon its enactment by the Board of Health, unless otherwise provided by general or special law, and subject to the following limitations.

Amendments to these regulations shall not apply to a project for which application has been made prior to the first publication of the notice of public hearing on such amendment, if that application is finally approved by the Board and if the approved work is completed prior to lapse of the permit or approval.

A permit or approval under these regulations shall lapse if the work approved is not completed within three years of the written approval, plus the period of time of any appeal from such approval. No work under a lapse permit or approval shall be allowed.

The provision of this section of the regulation are procedural, not substantive, and are intended to apply to all cases, retrospectively as well as prospectively.

Added January 17, 2001 Published on February 15, 2001

### **Project Review Fees – “593 Account”**

According to G.L Chapter 44, Section 53G, Project Review Fees are deposited into a special account referred to as the “593 Account”. This fee shall be imposed on those applications which, as designated by the Board of Health, require the service of outside consultants for the review process due to the size scale or complexity of the proposed project. In hiring outside consultants, the Board may engage engineers, planners, designers, or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board’s decisions or regulations, or inspecting a project during construction or implementation.

- A. Monies shall be collected from the applicant and deposited into the 593 Account upon submission of the application.
- B. Outside consultants retained by the Board of Health to assist in the review of an application shall be paid from this account.
- C. The Board of Health shall determine the amount of initial deposits to be made as put forth by the reviewing engineer.
- D. Any excess amount attributable to a particular project, including accrued interest, will be repaid to the applicant, or the applicant’s successor in interest, at the conclusion of the review process.

Added April 15, 2009 Published May 14 & 21, 2009

The provisions of this section of the regulation are procedural not substantive, and are intended to apply to all cases, retrospectively as well as prospectively.

The attached Rules and Regulations were approved on May 6, 2009 and published in the Wanderer and the Sentinel on May 14<sup>th</sup> and 21<sup>st</sup> 2009.

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Sandra Keese, Chairman

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Dale Barrows, Vice Chairman

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Glenn Lawrence, Clerk

Signed on May 6, 2009  
Published May 14 & 21, 2009  
Effective on June 1, 2009