## *SECTION 4: SUBSURFACE DISPOSAL OF SANITARY WASTE*

**4.10: Disposal System Installers Permit.** {15.019}

**4.10.1:** Any person, who constructs, expands, or repairs septic systems in the Town of Marion must have first obtained a disposal system installer's license from the Board.

**4.10.2:** Any person who constructs, expands, or repairs a septic system without first obtaining a disposal system installers license from the Board may be denied a license to install septic systems in the Town of Marion.

**4.20: Disposal System Construction Permit.** {15.020}

**4.20.1:** Any person, who constructs, expands, or repairs a septic system must obtain a disposal system construction permit from the Board.

**4.20.2:** Any septic system installer who constructs, expands, or repairs a septic system, or any part of a septic system, without having first obtained a disposal works construction permit from the Board may have his/her disposal system installer's license revoked by the Board.

**4.20.3:** Procedures to obtain a disposal system construction permit.

**a)** An application for a disposal system construction permit shall be submitted completely filled out, signed, and stamped by a Professional Engineer or Registered Sanitarian. An incomplete application will not be accepted.

**b)** Five (5) copies of the proposed plan shall be submitted with the application as well as the appropriate fee for disposal system construction permit.

**c) 1)** For those septic designs that do not require a variance from the Marion Sanitary Code or Title 5, the Board will review the septic plan and process the disposal system construction permit application within 30 days of receipt of the complete application.

**2)** For those septic designs that do require a variance from the Marion Sanitary Code or Title 5, the following procedure shall apply: Upon receipt of the variance request letter, the complete proposed plan, the disposal system construction permit, and the appropriate fee, the Board will schedule a public hearing to be held within 30 calendar days. After a hearing, the Board will post its decision within 14 calendar days and process the disposal system construction permit application within 45 days of the Board of Health decision.

**d)** The Board shall notify the applicant by mail whether the plan has been approved.

**e)** Upon approval of the disposal system construction permit application AND before work on the system begins, a licensed septic installer shall sign the application and obtain the approved disposal system construction permit and approved septic plan.

**f)** Once the septic system has been completely installed and satisfactorily inspected by the Board, the engineer shall submit to the Board three

copies of the as-built plan certified by the licensed Engineer or Sanitarian.

**g)** The as-built plan shall include, but not be limited to:

**1)** The approved septic plan with the swing tie measurements for the septic tank covers and distribution box in plain view, and

**2)** The as-built elevations indicated above the proposed elevations in the system profile section of the septic plan.

**4.20.4:** The Disposal System Construction Permit shall be valid for two years from the date of approval and may be renewed by the Board of Health upon request in writing at least thirty (30) days prior to the expiration date of the disposal system construction permit.

**4.20.5:** A change in ownership in the property subject of a construction permit represents a change in the application. The new owner, desiring to retain the permit, shall file a change of ownership form with the Board of Health before commencing the work authorized by the permit. Failure to do so may result in revocation of the permit and require the filing of a new application.

**4.30: GENERAL PROVISIONS.** {15.100}

All new construction shall be in compliance with Title 5 and the Marion Sanitary Code.

**4.40: Minimum Setback Distances.** {15.211}

**4.40.1:** For new construction or an increase in the size of a structure serviced by a septic system, no part of the soil absorption system shall be within 75 feet of a naturally occurring wetland or watercourse, or within 100 feet of a coastal wetland or top of a coastal bank.

**4.40.2:** For repairs or upgrades to an existing septic system without increase in the size of the structure serviced by the system, no part of the soil absorption system shall be within 50 feet of a naturally occurring wetland or watercourse, or within 100 feet of a coastal wetland or top of a coastal bank. The repair or upgrade to a system within 50 feet of a naturally occurring wetland or watercourse or within 100 feet of a coastal wetland or top of a coastal bank may be allowed only by a variance granted by the Board after application for variance and payment of the applicable variance fee.

**4.40.3:** For the purpose of this regulation, any part of a waterproof retaining wall shall be considered part of the leaching area. Any retaining wall shall be constructed in conformity with 310 CMR 15.255.

**4.50: Construction in Velocity Zone and Floodway.** {15.213}

**4.50.1:** For new construction or an increase in the septic flow or size of a structure serviced by a septic system, no part of a septic system that is to be constructed in the velocity zone shall be placed above the naturally occurring grade. The Board shall grant no variance to this requirement.

**4.50.2:** For repairs or upgrades to existing systems without increase in the septic flow or the size of a structure serviced by the septic system, the Board, without variance, shall approve those plans for septic system repair or upgrade that are in the velocity zone and are above the naturally occurring grade, but are so designed to minimize threats to health or property resulting from damage to the system by the flow of water or the diversion of the flow of water.

**4.60: Sewage System Flow Design Criteria.** {15.203}

**4.60.1:** A septic system, that will serve a new residential dwelling unit, shall be considered new construction and be designed with a minimum daily flow rate of 165 gallons per bedroom per day with a minimum capacity of 495 gallons per day.

**4.60.2:** A septic system that will be repaired in dwellings that have three or fewer bedrooms shall be designed with a minimum daily capacity of 400 gallons per day.

**4.60.3:** Septic systems that will be repaired in dwellings that have four or more bedrooms shall be designed with a minimum daily capacity of 400 gallons per day and an additional minimum daily bedroom flow of 110 gallons for each bedroom exceeding three.

**4.60.4:** Where the alteration of a structure results in a change in the number of bedrooms, the flow design shall comply with the requirements of 4.60.2 and 4.60.3, applicable to the number of bedrooms in the altered structure.

**4.70: Content of Plans and Specifications.** {15.220}

The septic plan shall include the following information:

**4.70.1:** The property owners name, street address, and the Marion Assessor's plan and lot number in the name block of the septic plan.

**4.70.2:** The septic plan shall include the statement "This plan conforms to the Marion Sanitary Code and Title 5," unless an application for a variance is submitted.

**4.70.3:** Should an application require a variance from either Title 5 or the Marion Sanitary Code, the plan shall include the statement: "This design requires the following variance from Title 5 / Marion Sanitary Code…" and identify the variances requested referencing the applicable Sections of the Marion Sanitary Code or Title 5.

**4.80: Septic Tank Capacity.** {15.223}

All dwellings of five bedrooms or larger shall have a septic tank of at least 2000 gallon capacity.

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**g)** The as-built plan shall include, but not be limited to:

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**4.80: Septic Tank Capacity.** {15.223}

All dwellings of five bedrooms or larger shall have a septic tank of at least 2000 gallon capacity.

**4.90: Soil Absorption Systems.** {15.240}

**4.90.1:** All pipes used in the construction, expansion, or repair of the septic system shall be of schedule 40 or of equal quality.

**4.90.2:** An individual septic system must be located on the same lot of land as the dwelling, building, or premises, to which it is to be connected except that the Board may allow the repair or upgrade of a system not located on the same lot if the building lot is unable to accommodate a system which otherwise complies with the Marion Sanitary Code and Title 5.

**4.95: Soil Absorption System Siting Requirements.** {15.245}

A septic system that will serve a new residential dwelling unit shall be considered new construction. New construction systems shall not be sited in areas with percolation rates that are slower than 30 minutes per inch. [November 1, 2005]

**4.100: Constructions in fill.** {15.255}

**4.100.1:** Filling or replication of wetlands, watercourses, or coastal wetland for the purpose of establishing Marion Sanitary Code setbacks is not permitted.

**4.100.2:** Setback measurements taken from the edge of the wetlands, watercourses, or coastal wetlands filled or replicated after the date of the adoption of this regulation will not satisfy the provision of the Marion Sanitary Code.

**4.100.3:** If any part of the septic system soil absorption system is to be placed above the naturally occurring grade, it shall be considered to be constructed wholly or partially in fill.

**4.110: Reserve Areas.** {15.248}

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

**4.120: System Inspections.** {15.301}

Any modification to a septic system shall require the approval of the Board as set forth in the Marion Sanitary Code and Title 5. Failure to obtain this approval from the Board, or to obtain the appropriate Title 5 inspection report, shall be grounds for declaring the dwelling of the septic system unfit for human habitation.

**4.130: Criteria for Inspection.** {15.302}

**4.130.1:** The determination of groundwater elevation for Subsurface Sewage Disposal System Inspections, as described in 15.301 of Title 5, shall be determined by soil evaluation. The soil evaluator shall have been previously approved by the Department of Environmental Protection. The soil evaluation may be conducted at any time of the year. If soil mottling is observed to be higher than observed groundwater elevations, the design groundwater elevation to be used for the septic system shall be that of the mottling measurement. The soil evaluation shall be conducted in the presence of the agent for the Board.

**4.130.2:** The Board may waive the requirement for a soil evaluation to determine groundwater elevation if it has on record an evaluation by a professional engineer in the immediate vicinity of the home being inspected that was performed after March 1, 1995.

**4.140: Systems Failing to Protect Public Health and Safety and the Environment.** {15.303}

**4.140.1:** All cesspools and privies, located in the Town of Marion, not found to be failing are considered non-conforming systems. At the time of real estate transfer, all cesspools and privies shall be upgraded to meet the standards set forth in Title 5 and the Marion Sanitary Code.

**4.140.2:** No person, owner, or operator, shall construct, repair, upgrade or replace a failed cesspool or privy servicing a dwelling or facility within the Town of Marion without first obtaining a permit from the Board.

**4.140.3:** Cesspool upgrades, which cannot meet the standards of Title 5 and the Marion Sanitary Code shall be upgraded with the approval of the Board to the maximum feasible extent as required under Title V and the Marion Sanitary Code. {15.401 through 15.422}

**4.140.4:** Cesspools and privies that cannot be upgraded to the standards, outlined in Title 5 and the Marion Sanitary Code, may be upgraded through innovative and alternative technology subject to approval by the Board.

**4.150: Approval of Title 5 Inspectors.** {15.340}

**4.150.1:** All persons conducting Title 5 inspections in the Town of Marion must be licensed by the Marion Board of Health. {15.302}

**4.150.2:** Title 5 inspectors may have their licenses to conduct Title 5 inspections in the Town of Marion suspended or revoked by the Board of Health for the following reasons:

- **a)** Failure to use current water table data from percolation tests performed in the area where the Title 5 inspection is performed or
- **b)** Failure to comply with the provisions of Title 5 or the Marion Sanitary Code.

**4.150.3:** The Board will report all inspectors, with suspended or revoked Marion licenses, to the Department of Environmental Protection and may pursue the revocation of the state license to conduct Title 5 inspections in the Commonwealth of Massachusetts.

**4.160: Maintenance of Septic Systems.** {15.351}

**4.160.1:** Every owner or agent of a premises in which there are any private sewers, individual sewage disposal systems, or other means of sewage disposal shall keep the sewers and disposal systems in proper operational condition. Every owner or agent shall have such works cleaned and maintained at such time as ordered by the Board. The Board may cause the works to be cleaned or repaired. All expenses incurred by the Board to clean or repair the works are to be paid by the owner.

**4.160.2:** Sewage disposal shall be conducted in a manner that will not create objectionable conditions or cause the works to be a source of pollution to any of the waters of the Town of Marion or of the Commonwealth.

**4.160.3:** No person shall pump, clean, or otherwise perform maintenance on a septic system without having first obtained a license to do so from the Board.

**4.160.4:** Every septic hauler, who pumps or cleans a septic system, shall submit monthly pump out records to the Board. Failure to submit such records may result in suspension of the license.

**4.160.5:** No person shall add any acid, enzyme, emulsifier, or any other chemical or substance to a septic system without authorization, in writing, from the Board.

**4.170: Variance.** {15.410}

**4.170.1:** The Board of Health may grant variances to the Marion Sanitary Code in conformity with the standards and procedures of the Title 5. {CMR11.11 and 310 CMR 15.410 through 15.416}

**4.170.2:** All applications to the Board of Health for variances shall be in writing. The application shall reference the specific sub-section from which a variance is sought.

**4.170.3:** No application for a variance to the Marion Sanitary Code or Title V shall be granted or denied by the Board of Health until it has held a public hearing on the said application.

**4.170.4:** The applicant or the applicant's representative shall, by certified mail, notify all property owners abutting the subject property and directly across the street from the subject property not less than ten (10) days prior to the date of the public hearing. The notice shall include a copy of the legal advertisement or all information required in the legal advertisement as noted in this section and as provided by the Board. The notification of the abutters shall be at the expense of the applicant.

**4.170.5:** The name of the applicant, the nature and the location of the variances applied for, and the place, date, and time of the Board's public hearing on the variance must be advertised in a locally circulated newspaper. The Board will place this advertisement in the locally circulated paper at least once in each of the two weeks prior to the week of the public hearing. The cost of this legal advertisement is to be paid by the applicant. The payment shall accompany the cost of the permit application, proposed plans, and variance application. Public hearings will not be scheduled until the variance submittal is complete and the Board has approved the application for advertisement.

[Unless otherwise indicated, the entire Section Four was effective March 1, 2003]