

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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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]

SECTION 4.180: SEPTIC SYSTEM DENITRIFICATION REGULATION

4.180.1: AUTHORITY

The following Marion Sanitary Code regulation is adopted pursuant to the Marion Board of Health in accordance with the provisions of MGL c. 111, section 31.

4.180.2: PURPOSE

The purpose of this regulation is to ensure that new and expanded flows from septic systems are not discharging excessive amounts of new nitrogen which contributes to the ongoing degradation of the Town's coastal waters.

4.180.3: STATEMENT OF PURPOSE

In connection with, and for the purpose of, adoption of this regulation the Board of Health makes the following findings pursuant to Massachusetts General Laws (MGL) Chapter 111, section 31 and all other enabling authority.

4.180.3.1: The presence of excess nitrogen in the town of Marion's water resources contributes to the growth of undesirable algae, that causes reducing dissolved oxygen and water clarity, and impairing habitat, and degrading the waters for shellfishing, recreation, and other public purposes.

4.180.3.2: On-site septic systems are a primary source of nitrogen to our coastal waters.

4.180.3.3: On-site septic systems remove no more than 25% of the nitrogen in our wastewater.

4.180.3.4: The installation of On-site septic systems adds new nitrogen to the town's nitrogen sensitive coastal waters.

4.180.3.5: On-site septic system technologies exist that can reduce nitrogen by at least 50%.

4.180.4: DEFINITIONS

Unless otherwise defined in the Marion Sanitary Code, all terms used shall have the definitions stipulated in 310 CMR 15.000 State Environmental Code, Title 5.

Alternative System – A Massachusetts Department of Environmental Protection approved system designed to provide or enhance the removal of nitrogen in on-site sewage disposal.

Cesspool - A pit with open-jointed linings or holes in the bottom and/or sidewalls into which raw sewage is discharged, the liquid portion of the sewage being disposed of by seeping or leaching into the surrounding soils, and the solids or sludge being retained in the pit. Cesspools are a nonconforming system.

Denitrification System - An on-site denitrification wastewater disposal technology that is intended to meet a nitrogen discharge standard of not more than 19 milligrams/liter (mg/l) and is approved by the Massachusetts Department of Environmental Protection (MassDEP) for general use, provisional use, or pilot program use for nitrogen reduction. Denitrification systems include self-contained, zero discharge, stand-alone composting toilets, used in conjunction with a greywater system, approved by the Massachusetts Board of State Examiners of Plumbers and Gas Fitters.

Existing Systems: Any on-site subsurface sewage disposal systems including nonconforming systems that existed prior to the effective date of this regulation.

Failed System: An existing system which fails to protect public health and safety or the environment as set forth at 310 CMR 15.303 or 15.304, including nonconforming systems at the time of transfer.

New Construction: The construction of a new building for which an occupancy permit is required, or an increase in the actual or design flow to any system, or an increase in the actual or design flow to any nonconforming system, or an increase in the design flow to any system above the existing approved capacity. New construction shall include the purposeful demolition and replacement of an existing building.

Nonconforming System – Any system which is not in full compliance with the standards and requirements of 310 CMR 15.000 and the Marion Sanitary Code, and for which a variance or local upgrade approval has not been obtained. Nonconforming systems include, but are not limited to cesspools, privies, failed systems, and systems with a design flow above 10,000 gpd.

On-site System or Disposal System or On-site Subsurface Sewage Disposal System or System - A system or series of systems for the treatment and disposal of sanitary sewage below the ground surface on a facility.

- a) The standard components of the system are: a building sewer; a septic tank to retain solids and scum; a distribution system; a soil absorption system containing effluent distribution lines to distribute and treat septic tank effluent prior to discharge to appropriate subsurface soils; and a reserve area.
- b) These terms also include tight tanks, shared systems and alternative systems. Unless the text of 310 CMR 15.000 indicates otherwise, these terms also include nonconforming systems.

Pressure-dosed System - The application under pressure of septic tank or treatment unit effluent to the entire soil absorption system at a prescribed rate.

Soil Absorption System – A system of trenches, galleries, chambers, pits, fields and beds together with effluent distribution lines and aggregate which receives effluent from a septic tank or treatment system.

Upgrade - The modification of one or more components of an on-site septic system or the design and construction of a new on-site system which is intended to bring a nonconforming system into conformance with 310 CMR 15.000. Relocation or substantial redesign and reconfiguration of a nonconforming system is an upgrade. An emergency repair is not an upgrade.

4.180.5: NEW CONSTRUCTION (NEW SYSTEMS OR INCREASE IN FLOW)

Construction of all on-site septic systems for new construction located within the town shall require a denitrification system that meets the performance standards as provided in Section 4.180.7, except where the Board determines that it is feasible to connect the building or any part of the building for which approval is sought to a sanitary sewer.

4.180.6: NONCONFORMING AND FAILED SYSTEM UPGRADE AT TIME OF TRANSFER

4.180.6.1: All systems shall be inspected at or within two years prior to the time of transfer of title to the facility being served by the system.

4.180.6.2: An existing system that is determined by inspection to be a nonconforming failed system at the time of transfer of title shall require as a component of its upgrade a denitrification system that meets the performance standards as provided in Section 4.180.7 either prior to the transfer of title or within the time period established by the Board.

4.180.7: PERFORMANCE STANDARD FOR DENITRIFICATION SYSTEMS

Denitrification systems shall be required to be installed, operated and maintained to achieve a system performance target of 19 mg/l or less for the total nitrogen (TN) in effluent measured on a rolling median average of sampling results.

4.180.8: CONNECTION TO SEWER

In the event public sewer becomes available to the property or facility after the installation of a denitrification system pursuant to this regulation, the property or facility served by the denitrification system shall be connected to public sewer as determined by the following formula:

20 years – (minus) the age of the existing denitrification system = the number of years to connect to public sewer. For example, if the denitrification system is 11 (eleven) years old, the owner will be granted 9 (nine) years to connect to public sewer (20-11=9).

4.180.9: VARIANCE

A variance may be granted by the Board of Health upon an application for a variance by the property owner or his agent. In reviewing the application the Board may consider, without limitation, whether an alternative system will result in equal or greater nitrogen reduction or that full compliance with the regulation is infeasible due to site or technical considerations.

4.180.10: OPERATION AND MAINTENANCE AGREEMENTS

4.180.10.1: At all times the permit holder shall maintain and comply with an Operation and Maintenance Agreement, which is subject to the prior approval of the Board of Health and its consultants and agents.

- (a) Such Operation and Maintenance Agreement shall include a provision requiring the system operator to take immediate corrective action, and notification to the Board of Health within seven (7) days, if the TN effluent limits are not in compliance with this regulation.
- (b) If a condition of the approval of an enhanced denitrification system requires that it be operated by a certified system operator, the owner or operator shall provide the Board with documentation certifying that said system will be operated by an operator certified by the Board of Certification of Operators of Wastewater Treatment Facilities.
- (c) The permit holder shall notify the Board of Health in writing within seven (7) days of any cancellation, expiration or other change in the terms and/or conditions of the Operation and Maintenance Agreement.
- (d) The permit holder shall repair, replace, modify, or take other action as required by the Board, if the Board determines that the system is not capable of meeting the required reduction in nitrogen the effluent.
- (e) A system shall not be considered a failed or nonconforming system due to its inability to meet the required reduction in nitrogen provided it was installed, operated, maintained and monitored in accordance with the regulations and applicable orders of the Board. Failure to comply with an order of the Board shall be considered a violation of the regulations.

4.180.11: MONITORING

4.180.11.1: The Board may require additional maintenance and monitoring of approved systems as it deems reasonable and necessary to ensure that the system is performing as designed and approved including, without limitation, monitoring that exceeds the monitoring specified in the Approval Letter issued by the MassDEP. Where applicable, the Board of Health shall require semi-annual measurement of Total Nitrogen in the effluent for the first two years after permit approval. After two years and upon a finding of compliance with this regulation, the Board of Health may reduce such monitoring to once a year.

4.180.11.2: Any required sample analysis shall be conducted by an independent U.S. Environmental Protection Agency or MassDEP approved testing laboratory, or an

approved independent university laboratory. It shall be a violation of this regulation to falsify any data collected pursuant to an approved testing plan, to omit any required data or to fail to submit any report required by such plan. All measurements and samples collected shall be collected, transported and stored in such manner as outlined in the most recent edition of Standard Methods for the examination of Water and Wastewater, American Public Health Association and the latest EPA analytical procedures.

4.180.11.3: Any person or entity that owns, operates, inspects or monitors an alternative on-site septic system in Marion shall provide the results of all monitoring and inspections to the Board of Health, or an entity designated by the Board of Health, in a format designated by the Board. All reports regarding maintenance, monitoring or inspections of alternative septic systems shall be submitted within 30 days of the time when the maintenance, inspection or monitoring was initiated.

4.180.11.4: No operating permit shall be issued until the applicant has filed, with the Registry of Deeds, a notice indicating the presence of a system approved hereunder, and the existence of monitoring and reporting requirements and the requirement for a service contract for the life of the system. Proof of such recording shall be provided to the Board of Health prior to issuance of an occupancy permit.

4.180.11.5: Such operation permit shall be renewed prior to transfer of ownership of property.

4.180.11.6: Any other conditions that may be deemed necessary by the Board of Health, including, but not limited to, issuance of a warranty for the system to be installed.

4.180.12: GENERAL CONDITIONS

4.180.12.1: Design, installation and use of an alternative septic system shall be in strict conformance with the company's MassDEP approved plans and specification, the MassDEP Approval a Letter and 310 CMR 15.000.

4.180.12.2: Prior to the issuance of a Certificate of Compliance by the Board of Health, the System Installer and Designer shall provide, in addition to the certifications required by 310 CMR15.021(3), certifications in writing to the Board of Health that the system has been constructed in compliance with the terms of the Approval Letter.

4.180.13: SEVERABILITY

The invalidity of any section or provision of this regulation shall not invalidate any other section or provision thereof.