

600: SUBSURFACE SEWAGE DISPOSAL SYSTEMS

601. STATEMENT OF PURPOSE

The Town of Provincetown is challenged by both a limited water supply and difficult conditions for the disposal of wastewater. Bearing directly on these challenges is the intensity of use of structures in the Town. The Provincetown Board of Health, in order to protect the public health and the environment from present and potential sources of pollution to groundwater, wetlands, and harbor resources, promulgate this regulation to supplement and clarify state and local regulations as they pertain to subsurface sewage disposal.

602. AUTHORITY

The Town of Provincetown, pursuant to Massachusetts General Laws Chapter III, Section 31, and 310 CMR 15.000, adopts these regulations as reasonable health regulations designed to protect and improve the health of residents and visitors to Provincetown.

603. DEFINITIONS

The definitions provided in the State Environmental Code (310 CMR), Sanitary Code (105 CMR 410), Building Code (780 CMR), and Plumbing Code (248 CMR 10) apply. The definitions provided herein are to provide additional clarification.

ADMINISTRATIVE CONSENT ORDER (ACO) is a duly executed and recorded document that affords a property owner in a specific area of Provincetown to defer major repair and /or upgrade of a failed on-site wastewater treatment system until the municipal sewer is available for connection. Specific provisions for deferment are detailed in the ACO Document.

BEDROOM is a portion of a dwelling that shall meet the minimum standards of a sleeping room as required by the State Building Code (780 CMR) and the Minimum Standards of Human Habitation (105 CMR 410). A bedroom does not include a kitchen, bath, hall, or unfinished cellar or attic. All bedrooms shall have finished walls and ceilings. A room that must be walked through in order to reach another room (other than a bathroom) will not be considered to have the minimum isolation necessary to be considered a bedroom. For new construction or remodeling, in order for a room not to be considered a bedroom there must be a minimum 6' opening into any other room other than a bathroom. Dwellings built prior to the 1978 Building Code will have their bedrooms determined on a case by case basis.

BEST MANAGEMENT PRACTICES (BMPS) are schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters. Best management practices include procedures and practices that reduce the discharge of Fats, Oil and Grease (FOG) to the building drain and to the wastewater system.

CESSPOOL is a pit with open-jointed linings or holes in the bottom and/or sidewalls into which sewage is discharged, the liquid portion of the sewage disposed via seeping or leaching into the surrounding soils or the effluent being retained in the pit. This includes any pit of block or brick construction or any pre-cast leach pit with no stone surrounding it. Any leaching facility that meets this definition, regardless of whether a septic tank is present is considered a cesspool.

CERTIFIED TITLE 5 SEPTIC SYSTEM is a subsurface wastewater disposal system that meets all of the following criteria:

1. The septic system was installed by a licensed installer under conditions identified by a valid Disposal System Construction Permit.
2. A Certificate of Compliance, as defined by 310 CMR 15.002 was issued by the Board of Health.
3. A septic system design plan in compliance with 310 CMR 15.000 as the regulations were in force at the time of construction, is available in the records of the Provincetown Board of Health.
4. The system designer affirms in writing that the system was installed in substantial compliance with 310 CMR 15.000.

FAILED SYSTEM is defined as a system which fails to protect public health and safety or the environment as set forth at 310 CMR 15.303 or 15.304, and may include the following: evidence of sewage flow or ponding to the surface; evidence of overload of the system; the system is in such a state of disrepair that it cannot function as originally intended; lack of four (4) foot of vertical separation between the bottom of the system and groundwater; system is composed of leach pit(s) or cesspool(s) which are inadequate in design or capacity for the existing use; or system requires pumping more than four (4) times in a twelve-month period to prevent such overflows.

FATS, OILS AND GREASES (FOG) shall mean organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases”.

GREASE INTERCEPTOR is an interior retention tank with a capacity of less than 1,000 gallons. 248 CMR 10, the Uniform Plumbing Code, determines which properties shall be required to have a grease interceptor. Any food service establishment with a three bay sink is required to have a grease interceptor as well as a grease trap.

GREASE TRAP is an external, underground single or multi-compartment tank with a minimum capacity of 1,000 gallons. It is sized per the requirements of 310 CMR 15.000. It is a device for separating and retaining waterborne fats, oils, greases and grease complexes prior to the wastewater exiting the grease trap and entering the building sewer. Grease traps shall be readily accessible for required maintenance. These devices also serve to collect settled solids, generated by and from food preparation activities, prior to the water exiting the grease trap and entering the building sewer.

LICENSED SEPTAGE HAULER shall mean an entity holding a current license approved by the Provincetown Board of Health for pumping and hauling septage and/or grease as well as approved by the authority where the septage and grease is being disposed.

OCCUPANCY shall be defined, as it pertains to wastewater flow in licensed businesses that serve food or drink but for which seating does not adequately represent the use of the space, the maximum standing occupancy as determined by the Fire Chief or Building Commissioner, shall be used to determine wastewater design flow.

SANITARY SEWER shall mean a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

SEATS shall be defined, as it pertains to wastewater flow in licensed businesses that serve food or drink as spaces for sitting, with a table, shelf, bar or counter which to set food or drink, without regard to service, except for the following:

1. Bars, ledges or shelves less than 8 ½ inches in depth without associated chairs, benches, or stools.
2. Outdoor chairs, benches, or stools adjacent to and facing, but not fenced, roped or otherwise separated from a public or private way, without an associated 8 ½ inch or greater surface on which to set food and drink, and which are available as a public amenity.
3. Benches or chairs intended solely as a waiting area.
4. Pool or lounge chairs around a pool or other body of water that do not have table or cocktail service.
5. Bar chairs, benches, or stools in an establishment in which the wastewater design flow is determined by occupancy not seats.

SERVICE AREA shall mean the area and all inclusive properties represented on a map available at the Department of Public Works and entitled “Wastewater Service Area.”

SEWER SYSTEM shall mean public sanitary sewers and appurtenances, including pump stations, buffer tanks, grinder pumps and valve pits.

SLEEPING LOFT shall mean a loft that meets the definition of a bedroom provided in this regulation and the following criteria:

1. A privacy wall of at least 3’ in height.
2. Access other than a ladder and which complies with the current State Building code (780 CMR).

Any loft that does not meet the above criteria shall not be used for sleeping purposes.

610. SUBPART A: PROCESS FOR OBTAINING A DISPOSAL WORKS SYSTEM PERMIT

611. REQUIREMENTS TO RECEIVE A PERMIT

Sewage Disposal Works Construction Permits will be issued when the proposed system fully meets the physical (i.e. hardware and spatial) requirements of 310 CMR 15.000, and the specific requirements of the Provincetown Board of Health contained herein.

612. PLAN SUBMITTAL REQUIREMENTS

1. **Unvarianced Septic System Design Plans:** Unvarianced septic system design plans submitted to the Health Department for approval must be accompanied by the following:
 - a) Completed Application for Disposal System Construction Permit.
 - b) Application fee.
 - c) Three copies of the septic system design plan stamped by a civil or professional engineer or registered sanitarian.
 - d) Existing floor plans of all structures to be served by the system with all rooms labeled and, if applicable, proposed floor plans with all rooms labeled.
2. **Variance Septic System Design Plans:** Septic system design plans requiring a variance(s) must be submitted at a minimum of two weeks prior to the scheduled Board of Health variance hearing date. Applications for variances to 310 CMR 15.000 shall include:
 - a) Completed Application for Disposal System Construction Permit.

- b) Disposal System Construction Permit application fee and variance filing fee.
- c) Notification letter to the abutters informing them of the variance(s) requested, the time, date, and location of the variance hearing, and where and when the plans can be viewed.
- d) List of abutters.
- e) Ten packets of materials that include:
 - a. The septic system design plan stamped by a civil or professional engineer or registered sanitarian.
 - b. Existing floor plans of all structures to be served by the system with all rooms labeled and, if applicable, proposed floor plans with all rooms labeled.

Plans submitted to the Board of Health for approval that require any sideline setback variance(s) must be stamped by a Registered Land Surveyor. Varianced plans must be submitted and presented to the Board of Health by a qualified professional in accordance with 310 CMR 15.000.

613. INSPECTIONS AND CERTIFICATIONS REQUIRED

Prior to backfilling over an installed septic system, the system shall be inspected by both the system designer and an agent of the Board of Health. The system designer shall certify in writing that all work has been completed in accordance with the terms of the permit and approved designed plans. The designer shall also submit “As-Built” plans that accurately depict the installed locations of system components.

In the case of varianced septic systems the designer shall provide an engineered “as-built” complete with elevations of the septic system components as pertains to groundwater.

The septic system installer shall submit an accurate “as-built” card of the septic system. The information on this “as-built” card shall contain, but not necessarily be limited to, the following:

1. Swing-ties taken from two locations on a permanent structure to the septic tank inlet cover and outlet cover, pump chamber inlet cover and outlet cover (if applicable), grease trap inlet cover and outlet cover (if applicable), distribution box cover, the four corners of the leaching area and at least one viewing port to the leaching area.
2. Owners name, project location, septic system installation permit number, date of installation, septic system designer and septic system installer must be included on the “as-built” card.

620. SUBPART B: APPLICATIONS REQUIRING HEALTH REVIEW

621. BUILDING PERMIT APPLICATIONS

For properties that are not on the municipal sewer system, applications for a building permit require review by the Health Department if they meet the following criteria:

1. Alterations of the footprint, including deck areas.
2. Installation of additional heating facilities or insulation in a property that were previously uninsulated.
3. Providing kitchen facilities where they previously were lacking.
4. Making improvements that cost \$50,000 or more.

A Certified Title 5 Inspection Report shall be required with the building permit application to determine if the subsurface disposal system is in working condition.

Exemptions from this provision are involuntary repairs necessary to maintain structural integrity or minimum

standards of habitation, such as framing, window and roofing repairs or replacements or evidence in Health Department files that the septic system was installed within ten years of the date of the building permit.

622. INCREASE IN WASTEWATER DESIGN FLOW

No building shall be remodeled, replaced, altered, or built upon in any manner that intensifies or increases the usage of its septic system unless the septic system complies with 310 CMR 15 and Provincetown Board of Health Regulations, or written approval is obtained from the Board of Health. Any increase in flow will invoke the Growth Management By-Law.

623. GROWTH MANAGEMENT REQUIREMENTS

Applicants wishing to increase wastewater design flow via Growth Management shall submit an engineered septic system design plan which demonstrates that an unvarianced septic system can be located on the property for the combined existing and proposed increase in flow. This requirement applies to all properties, regardless of type of subsurface disposal system.

624. PERMIT REQUIRED FOR INSTALLATION OF WELLS

Private wells in Provincetown shall be required to be permitted by the Health Department. An application shall include a plot plan of the lot or area showing the exact proposed location of the well, the location of the sewage disposal system on the lot or area and the sewage systems on immediate abutting lots. A distance of not less than 25 feet must be maintained between the well and all subsurface sewage disposal systems in the area. A private well can only be utilized to service those dwellings on a single lot or single bounded area. The use of a single well to supply water to buildings on two or more lots is unauthorized.

630. SUBPART C: FAILURES AND UPGRADES

631. CESSPOOLS

All cesspools, whether single or multiple, will be considered failed for purposes of the transfer of property.

632. SYSTEM INSPECTION REPORTS

Inspections of cesspools shall report whether the cesspool is functioning and in good condition. This report will determine whether the property is eligible for a sewer connection, an Administrative Consent Order (ACO), or will be required to upgrade immediately.

All leaching facilities that do not maintain a four foot separation between the bottom of the leach area and estimated high groundwater (elevation 3.8) will be considered failed unless documentation can be provided verifying that a variance was granted by the Provincetown Board of Health or the Department of Environmental Protection for the bottom of the leaching area to be located less than four feet to estimated high groundwater.

633. REQUIREMENT TO CONNECT TO MUNICIPAL SEWER UPON ITS AVAILABILITY

Any property with a failed septic system, excluding those requiring minor repairs as approved by the Board of Health and/or Health Agent, shall connect to the municipal sewer upon its availability provided there is sufficient capacity within the sewer system. A minor repair includes those which do not require an engineered plan such as, but not limited to, broken covers, clogged or collapsed lines, and repairs to the distribution box.

634. REQUIREMENT FOR PROPERTIES LOCATED WITHIN THE SERVICE AREA WHO HAVE OPTED NOT TO CONNECT TO THE MUNICIPAL SEWER UPON ITS AVAILABILITY

Owners of properties shown to be in compliance with 310 CMR 15.000 at the time of their respective installations and who have opted not to connect to the municipal sewer shall allow an inspection of the septic system at any reasonable hour. Owners of these systems shall be required to pump septage and/or grease from said septic systems at a frequency determined by the Board of Health or its agent. The cost of all septage and/or grease removal shall be the responsibility of the property owner. Owners of these systems may also be required to cause additional monitoring equipment to be installed in order to ensure proper operation of the system and/or reporting of system performance to the Board of Health and its agents. Owners of these properties will be required to connect to the sewer at the time of their septic systems failure if capacity is available or enter into an Administrative Consent Order if capacity is not available or if the municipal sewer system does not service the area where they are located.

Owners of properties located within the Service Area and that are presently served by a Certified Title 5 Septic System, but who could not replace the septic system in substantial compliance with 310 CMR 15.000 must connect to the municipal sewer at such time as the septic system is determined to be failed by the Board of Health or its agents.

635. ALL SYSTEMS ON THE LOT

In the event that a septic system inspection determines that the subsurface sewage disposal system is in failure and must be made to comply with 310 CMR 15.000 and Provincetown Board of Health Regulations, all substandard septic systems on the lot shall be made to comply.

636. ADMINISTRATIVE CONSENT ORDERS

The Board of Health reserves the right to require any property owner with a failed septic system in an area where future phases are being considered, or where connection to the municipal sewer system is not available due to the fact that no municipal sewer exists in that area or that the existing sewer system has no available capacity in that area to accommodate a connection, to enter into an Administrative Consent Order (ACO). Once the ACO is recorded with the deed at the Barnstable County Registry of Deeds and the first payment made to the Treasurer, the property owner shall be allowed to make repairs to the failed septic system. All repairs must be approved and permitted by the Health Agent prior to installation.

637. REQUIREMENT TO UPGRADE SEPTIC SYSTEMS WITHIN FIVE YEARS

The owners of all properties located within the Service Area and who fail to demonstrate that the property is served by a Certified Title 5 Septic System, and who have opted not to connect to the municipal sewer upon its availability shall cause the property to be connected to the sewer within five years from the date when the sewer becomes available provided capacity within the sewer is available. Owners of failed systems in this category shall be required to connect to the municipal sewer unless the sewer lacks sufficient capacity. In these cases the owner may be required to enter into an Administrative Consent Order.

640. SUBPART D: SUPPLEMENTS TO 310 CMR 15 (TITLE 5)

641. DETERMINATION OF WASTEWATER DESIGN FLOWS

Wastewater design flows to the municipal sewer or an onsite septic system shall be determined using provisions set forth in 310 CMR 15.203: System Sewage Flow Design Criteria or other applicable Provincetown Board of Health Regulations. The owner of any property shall, upon reasonable notice and request, allow an inspection of a property for a determination of flow by an agent of the Board of Health, except that in lieu of this inspection, the owner of the property may submit a floor plan with sufficient detail to account for all outside structure dimensions. This floor plan must be dated within five (5) years of the request and bear the stamp and signature of a licensed designer or architect.

642. NO VARIANCES FOR NEW BUILDINGS ON UNDEVELOPED LOTS

The Provincetown Board of Health will not grant any variances from provisions of 310 CMR 15.000, nor for any local Board of Health Regulations, for new buildings on undeveloped lots.

643. DISTANCE TO WETLAND

No component of a subsurface sewage disposal system may be located within one hundred (100) feet of any inland or coastal wetland.

644. COMPONENTS WITHIN THE FLOODPLAIN

The septic tank and the leaching facility must be at least one foot below the existing natural grade when in the 100 year floodplain.

645. REQUIREMENTS FOR PROPERTIES SERVED BY ALTERNATIVE SEPTIC SYSTEMS

Owners and operators of all innovative/alternative sewage treatment technologies and all systems where the soil absorption system is designed for pressure distribution of effluent must report the results of all operation, maintenance, and monitoring activities to Barnstable County Department of Health and Environment. Such reporting shall be performed in the manner specified by Barnstable County Department of Health and Environment and must occur within 30 days after each maintenance or monitoring event. Further, when a system operator performs a system inspection and finds that a sewage treatment technology has malfunctioning components which have compromised the system's ability to treat sewage as designed, the operator shall report on the system's status and any planned corrective actions to the Board of Health and Barnstable County Department of Health and Environment within 48 hours of inspection.

646. REGULATIONS PERTAINING TO COOKING ESTABLISHMENTS AND OTHER FACILITIES FROM WHICH GREASE CAN BE EXPECTED TO BE DISCHARGED

External grease traps shall be required at all restaurants, nursing homes, hospitals or other facilities as required by the State Plumbing Code, the State Sanitary Code, the Board of Health or its Agent. No property shall allow wastewater discharge to the sewer line leaving the property to exceed 100 milligrams per liter of grease as determined by standard laboratory procedures. All grease traps shall be of a type, design and capacity specified in 310 CMR 15.230 or as otherwise approved by the Board of Health. All grease traps shall be readily and easily accessible for cleaning and inspection. All grease traps shall be inspected as required by 310 CMR 15 and the Provincetown Water and Sewer Board Regulations.

A grease trap shall be installed on the building drain/sewer that extends from the food preparation and clean up areas. No sanitary facilities shall be connected to the grease trap. Access manhole covers shall be provided over each grease trap and sanitary tee. The access manholes shall extend at least to finished grade and be designed

and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable manhole-type access covers to facilitate inspection, grease removal, and wastewater sampling activities.

Property owners or managers required to install grease traps are expected to employ best management practices (BMPs) in food preparation and clean up. These best management practices shall assure that fats, oils and greases are not directly discharged to the building drain. For example: waste food or trimmings including fats, oils and greases shall not be discharged to the building drain through a garbage grinder; oil from deep fat frying shall not be discharged to the building sewer, etc.

Should there be an indication, through either physical inspection or monitoring results, that grease is entering the sewer system in excess of 100 mg/l, then sampling and testing will be required of the grease trap effluent at the owner's expense. Violations relating to grease trap maintenance shall be referred to the Provincetown Water and Sewer Board for Enforcement.

647. ABANDONMENT OF SEPTIC SYSTEMS AT PROPERTIES SERVED BY MUNICIPAL SEWER

Septic systems at properties that connect to the sewer shall be abandoned according to 310 CMR 15.354. Abandonment shall be recorded through a Disposal Works Permit, for which there is no fee. It is the responsibility of the homeowner or the homeowner's agent to contact the Health Agent for an inspection of the properly abandoned septic system.

648. REGULATIONS REGARDING STUDIOS AND WORKSHOPS

Because Provincetown Zoning By-Laws allows for Artist's Studios, and 310 CMR 15.000 does not provide septic system flow design criteria for this use, this regulation promulgates a design flow for Artist's Studios. All other applicable sections of 310 CMR 15.000 and 248 CMR 10.000, including the requirement of diversion of hazardous wastes shall apply to Artist's Studios.

There is no flow associated with a properly permitted Artist's Studio. To be considered an Artist's Studio that has no effect on the total wastewater design flow of the property, the structure shall not have bathing facilities (shower or tub) indoors or outdoors. Plans to provide an accessory structure with bathing facilities shall subject the project to all applicable Zoning and Growth Management By-Laws and reviews regarding dwellings.

In order to receive a permit from the Health Department for an Artist's Studio that does not effect the total wastewater design flow of the property, the structure shall be referenced in a deed restriction that states that the structure shall not be used for sleeping purposes and recorded at the Barnstable County Registry of Deeds. Proof of recording shall be provided to the Health Department prior to the closure of any Community Development permits.

649. UNAPPROVED CLEANSING AGENTS

The addition or application of any chemical or biological agent for the purpose of cleansing or rejuvenating on-site cesspools or septic systems is prohibited except where approved by the DEP.

650. SUBPART E: SUPPLEMENTS TO WATER AND SEWER BOARD REGULATIONS

651. MAXIMUM ALLOWABLE USE OF STRUCTURES WITHIN THE SERVICE AREA

No person shall modify an existing structure located within the Service Area or change its use so as to increase its sewage flow unless it can be demonstrated that the aggregate of the existing and proposed modification or change in use could be accommodated by an onsite septic system in full compliance with 310 CMR 15.000. If these criteria are met, then the allowable modification or change in use may be allowed, provided the property owner has obtained approval via Growth Management and/or a Board of Selectmen approved Economic Development Permit. Design criteria contained in 310 CMR 15.203, and any local Board of Health Regulation shall be used to determine whether a proposed modification or change in use shall constitute an increase in sewage flow.

660. SEVERABILITY

If any provisions of this regulation or the application thereof are held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision and the remainder of the regulation shall remain valid and effective. Any part of this regulation subsequently invalidated by state law shall automatically be brought into conformity with the new or amended law and shall be deemed effective immediately, without recourse to a public hearing.

670. EFFECTIVE DATES

This regulation was adopted in its entirety on March 15, 2018, with an effective date of May 1, 2018. Where possible, the dates of adoption for original subsections are listed below:

- Inspection Prior to Backfill: October 14, 1986
- Upgrade Requirements – No Variance: September 23, 1987
- Real Estate Transfer Inspections: March 20, 2008
- Municipal Sewer System: November 2, 2000
- Regulations Regarding Studios: March 7, 2000