

## **600: SANITARY SEWAGE DISPOSAL AND WASTEWATER FLOW ALLOCATIONS**

### **601. STATEMENT OF PURPOSE**

The Town of Provincetown is challenged by both a limited water supply and difficult conditions for the disposal of wastewater. Based on these unique local conditions, the Provincetown Board of Health has determined that the State Environmental Code “Title 5: Minimum Requirements for the Subsurface Disposal of Sanitary Sewage (310 CMR 15 et. seq.) is not adequate to protect ground- and surface waters from contamination by nutrients, pathogens and hazardous materials associated with septic system effluent in the Town of Provincetown particularly in areas with rapid infiltration rates in our coastal area characterized by tidally influenced groundwater fluctuations, coastal flooding risks and the need to plan for climate change resiliency. In order to protect the public health and the environment from present and potential sources of pollution to groundwater, wetlands, and harbor resources, the Board promulgates these regulations to supplement and clarify state and local regulations as they pertain to both on-site sanitary subsurface sewage disposal systems and properties connected to the Provincetown municipal sewer system.

### **602. AUTHORITY**

The Town of Provincetown, pursuant to Massachusetts General Laws Chapter 111, 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 permits a property owner to defer 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) and the definition of a bedroom in the State Environmental Code, Title 5 (310 CMR 15). A bedroom does not include a kitchen, dining area, living room, bath, hall, or unfinished cellar or attic, or open deck, unheated porch or garage. All bedrooms shall have finished walls and ceilings. A room that must be walked through in order to reach another room (other than an en-suite bathroom) will not be considered to have the minimum isolation necessary to be considered a bedroom. Stairwells that connect one floor to another meet the minimum standards for isolation, unless constructed with open railing. 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. For the purposes of this regulation and flow allocation, Sleeping Lofts as defined herein will be counted as bedrooms.

**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.

CONVENTIONAL SYSTEM shall mean any Certified Title 5 septic system that is not designed utilizing “Innovative/Alternative (I/A)” technology approved by Massachusetts Department of Environmental Protection (MassDEP) for enhanced on-site wastewater treatment, such as nitrogen reduction. It is recognized that MassDEP is promulgating revisions to the State Environmental Code that may call for any unenhanced conventional system owners to install “best available technology” I/A components rated for nutrient reduction; nothing in these regulations shields Provincetown properties from compliance if that statute takes local effect (except sewer connection).

DESIGN FLOW, Residential: For Health Department plan reviews of building permit applications, proposed septic system design plans or any other prompt for flow reviews compared to existing capacity, in order to determine compliance an on-site sanitary sewage disposal system or municipal sewer wastewater flow allocation, “design flow” shall mean the quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with Title 5 and these regulations, and shall be based on the number of bedrooms in the Facility to be served by the system, regardless of type of wastewater disposal. The definition of a bedroom shall include any portion of the dwelling meeting the spatial minimum area as outlined in the environmental and sanitary codes, designed to furnish isolation and privacy necessary for use as a sleeping area including spaces identified as a bedroom, den, study, office, sewing or craft room, family room, gym or workout room, etc., unless prohibited from use as a bedroom by deed restriction. Dwellings built prior to the 1978 Building Code will have their bedrooms determined on a case-by-case basis.

DESIGN FLOW, Commercial: For Health Department plan reviews of building permit applications, proposed septic system design plans or any other prompt for flow reviews compared to existing capacity, in order to determine compliance with an on-site sanitary sewage disposal system or municipal sewer wastewater flow allocation, “design flow” shall mean the quantity of sewage, expressed in gallons per day (gpd) for which a system must be designed in accordance with Title 5 and these regulations, regardless of type of wastewater disposal. For commercial uses and establishments, calculations are as provided by 310 CMR 15.203 (or successor citation) “Sewage Flow Design Criteria” with the following clarifications:

1. Application of the “Tavern Seat” design flow of 20 gpd per seat shall apply to establishments licensed only as a ‘bar – limited facility’ for the service of beverages only.
2. In establishments with food service licensing under the ‘limited facility’ restriction based on infrastructure, the application of the “fast food” design flow of 20 gpd per seat restricts the operation

from table service, limits the operation to minimize ware-washing.

3. In establishments with full-service food licensing based on infrastructure, the application of “restaurant” design flow of 35 gpd per seat shall apply to all seating areas.

**ENVIRONMENTALLY SENSITIVE AREA** is defined as:

1. Land area (whether developed or not) that borders on and is within 100’ of any resources under the Wetland Protection Act (310 CMR 10) such as marshes, tidal flats, coastal beaches or surface waters.
2. Land containing subsurface water which is less than six feet (6’) below natural ground elevation, as determined either by reliance on an engineered septic system plan of record designed under the 1995 Title 5 code, or a current hand auger field determination (less than 5 years old).
3. Land area mapped as Federal Emergency Management Act (FEMA) Flood Insurance Rate Maps (FIRM) Zones with high-risk Special Flood Hazard Areas “A” (areas subject to inundation) or “V” (areas subject to inundation with storm-induced waves, or velocity).

**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 et. seq., and/or these regulations and may include the following hydraulic failures: 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; or system requires pumping more than four (4) times in a twelve-month period to prevent such overflows. The following are technical failures per Provincetown Board of Health: lack of five (5) foot of vertical separation between the bottom of the system and groundwater; system is found to be in use over the record of design flow or capacity based on engineered plans and/ or a Disposal System Construction Permit; any system with H10 components located under parking/driveway areas or with system components inaccessibly located under structures; or any system composed of a non-engineered leach pit(s) or cesspool(s). Upon the availability of sewer service for a property to connect, the status of ‘technical failure’ is in effect, whether or not there has been a “Title 5 Official Inspection Form” submitted to the Health Department.

**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 ‘limited facility’ or ‘full service’ license as defined by the Provincetown Board of Health at Part IV Article 5 “Food Permit Regulation” is required to have a grease interceptor as well as a grease trap, unless granted a varianced Water and Sewer Board grease management plan.

**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. Any food service establishment with a ‘limited facility’ or ‘full service’

license is required to have a grease trap as well as an interceptor, unless granted a varianced Water and Sewer Board grease management plan.

**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. Licensed septage haulers are required to submit electronic records of all pumping receipts through the Provincetown online permitting system. For the grease trap pumpings annually required for food service establishments, accurate recording the date of service is mandatory.

**MOUNDED or RAISED SYSTEM** shall mean proposing to raise the natural elevation or grade of the ground to cover the components of a sewage disposal system, and/or to meet the vertical separation requirements above groundwater.

MUNICIPAL SEWER shall mean the Town of Provincetown wastewater collection and treatment public sewer system.

**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.

PUBLIC HEALTH FAILURE shall mean a determination of the Board of Health that an on-site sewage disposal system is found to be in hydraulic failure through a Title 5 Official Inspection; is in an Environmentally Sensitive Area and cannot meet the requirements of Title 5 and these regulations; or is deemed to be in technical failure under these regulations.

**SANITARY SEWER** shall mean any system of pipes, conduits, pumping stations, force mains and all other structures and devices used for collecting and conveying wastewater to a public or private treatment works, and to which storm, surface and groundwater are not intentionally admitted.

Title 5 310 CMR 15 states policy preference, where available: “No new system shall be constructed, and no system shall be upgraded or expanded, if it is feasible to connect the facility...to a sanitary sewer, except in the following circumstances...the system fully complies with 310 CMR 15.000 and does not require:

1. a local upgrade approval, or
2. a variance.

**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.

**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.

**WASTEWATER 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." Following the adoption of sewer expansion articles approved by Special Town Meeting on November 9, 2022, Phase 6A will provide sewer service infilled to all existing wastewater service areas, and Phase 6B will create availability for sewer connections in new areas, with anticipated service for all Provincetown properties by 2030.

## **610. SUBPART A: DISPOSAL SYSTEM CONSTRUCTION PERMIT PROCESS**

### **611. REQUIREMENTS TO RECEIVE A PERMIT**

Sewage Disposal System Construction Permits will be issued for new construction or for an upgrade of existing systems only when the proposed system fully meets physical (*i.e.* hardware and spatial) requirements of 310 CMR 15.000, and the specific requirements of the Provincetown Board of Health contained herein, or has been approved for a local upgrade and/or any variances in an advertised public meeting of the Provincetown Board of Health.

Where a property's wastewater disposal can be supported in a safe and sanitary manner with an Administrative Consent Order (ACO) pending sewer availability for connection to the Provincetown wastewater service area it is the Board of Health's policy that the applicant apply with the Health Department for an ACO where feasible as priority for sewer connection planning, over on-site sewage disposal upgrades.

### **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) Online completed application for Disposal System Construction Permit, submitted by a wastewater professional licensed by the Provincetown Board of Health for septic installations.
  - b) Application fee.
  - c) ~~Three~~ Two hardcopies of the septic system design plan stamped by a civil or professional engineer or registered sanitarian shall be submitted to the Provincetown Health Department and any other designated reviewers, and uploaded into the online Disposal System Construction Permit application (as PDF or equivalent file type that renders text and graphics clearly).
  - d) Existing dimensioned floor plans of all structures to be served by the system with all rooms labeled and, if applicable, proposed dimensioned floor plans with all rooms labeled, with two hardcopies submitted to the Provincetown Health Department and any other designated reviewers, and uploaded into the online Disposal System Construction Permit application (as PDF or equivalent file type that renders text and graphics clearly).
2. **Local Upgrade Approval (LUA) Septic System Design Plans:** Septic system design plans requiring

Local Upgrade Approval(s) must be submitted according to the filing deadline posted as the “Town of Provincetown Board of Health Meeting Schedule” with an online ‘Application to Appear Before Board of Health’ prior to the requested Board of Health hearing date. Applications for Local Upgrade Approval(s) under 310 CMR 15.000 shall include:

- a) Notification letter to the abutters informing them of the LUA(s) requested, the time, date, and location of the hearing, and where and when the plans can be viewed. It is the designer or project representative’s responsibility to request abutter information through the permitting portal from the Assessor’s Department, provide notification and proof of certified mailings.
- b) List of abutters.
- c) Two hardcopy packets of materials submitted to the Provincetown Health Department and any other designated reviewers, to include:
  - a. The septic system design plan stamped by a civil or professional engineer **or** registered sanitarian.
  - b. Existing dimensioned floor plans of all structures to be served by the system with all rooms labeled and, if applicable, proposed dimensioned floor plans with all rooms labeled.
- d) An uploaded set of design and floor plans, as outlined above, (as PDF or equivalent file type that renders text and graphics clearly).

Plans submitted to the Board of Health for approval that do not meet sideline setbacks must be stamped by a Registered Professional Land Surveyor (PLS). Plans must be submitted and presented to the Board of Health by a qualified professional in accordance with 310 CMR 15.000 (P.E or RS). Upon approval by the Provincetown Board of Health, the presence of an on-site sanitary sewage disposal system and any conditions of approval shall be recorded with the Barnstable County Registry of Deeds, or Land Court, as applicable. The applicant or representative shall return proof of deed recording prior to the licensed septic installer making application for the Disposal System Construction Permit (DSCP) for installation.

Local Upgrade Approvals granted by the Provincetown Board of Health shall be valid for a period of six months. If a Disposal System Construction Permit is not applied for during that timeframe, the local upgrade approvals and/or any variances granted are null and void.

A Disposal System Construction Permit shall be valid for a period of three years from the date of issuance, unless pursuant to a real estate transfer, requiring completion within six months. An expired permit will require re-application and compliance with current Title 5 and Board of Health regulations.

Where upgrade or new construction of the on-site sanitary sewage disposal system is associated with a building permit, there may be no ‘Certificate of Occupancy’ prior to closure of the DSCP with the request for a ‘Certificate of Compliance’ to be issued.

### **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.

The designer shall provide an engineered “as-built” complete with elevations of the septic system components as pertains to groundwater, and a certification letter on company letterhead attesting to their inspection finding



the septic system installation substantially complies with the proposed design, Title 5 and Provincetown Board of Health regulations. Any field-determined changes from proposed plans should be noted; no new variances or increased design flows incurred by installation deviations from plan shall be permitted.

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. Owner’s 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**

Applications for a building permit require review by the Health Department if they meet any of the following criteria:

1. Alterations of the footprint.
2. Installation of insulation or heat to previously unconditioned space.
3. Providing new kitchen or bathing facilities.
4. Making improvements that cost \$100,000 or more.
5. At the Building Commissioner’s discretion for Health referral.

A Certified Title 5 Inspection Report of an inspection conducted within the past three years of the date of building permit application, or with an agreement to contract for an inspection to commence by a date-certain, shall be required with the building permit application for any property served by an on-site sanitary sewage disposal system and subject to Health Department review under this section, 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 three 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 design flow of its septic system or sewer allocation unless

1. In the case of a property served by an on-site sanitary sewage disposal system, the septic system complies with 310 CMR 15.000 (*et. seq.* “Title 5” design flows), and Provincetown Board of Health Regulations for that use with adequate capacity provided in the leaching area calculations, with flow review approval obtained through the Growth Management By-Law process and application.
2. In the case of a property served by the Municipal Sewer, the proposed increase to design flow allocation is approved by the Board of Health or its Agent through the Growth Management By-Law process and application or Economic Development Permit application process.

### **623. GROWTH MANAGEMENT REQUIREMENTS**

Applicants wishing to increase wastewater design flow via Growth Management using an on-site sanitary sewage disposal 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. Application criteria for Growth Management allocation shall be as set forth in the Growth Management Bylaw.

### **624. PERMIT REQUIRED FOR INSTALLATION OF WELLS**

Wells in Provincetown shall be required to be permitted by the Health Department. An online application shall include a plot plan of the lot or area showing the exact proposed location of the well, the location of any sewage disposal system on the lot or 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 for proposed irrigation wells, with this radius demonstrated on application plans. A private well can only be utilized to service a single lot or single bounded area. The use of a single well to supply water on two or more lots is unauthorized. A residential dual-check valve must be installed on the Town water service for the property as a condition of the irrigation well permit, with the satisfaction of the Provincetown Water Department. Inspection with the Water Department shall be scheduled following the contractor's filing of the Department of Environmental Protection 'Well Completion Report' form and laboratory analysis. Drinking water supply wells to be developed for domestic consumption must meet at the requirements of 310 CMR 22.00, the Massachusetts Drinking Water Regulations, and all other applicable laws.

### **625. NUMBER OF BATHROOMS**

Residential properties shall be allowed up to one full bathroom, comprised of toilet, sink and bathing facility (shower or bath) per legal bedroom (as defined herein) plus one additional half-bathroom (comprised of a sink and toilet only) per dwelling unit, as defined by the State Sanitary Code, 105 CMR 410. This regulation applies to any residential property proposing new construction that requires Health Department review per section 621: Building Permit Applications. Requests for additional bathrooms or bathing facilities must be made in writing to the Board of Health as appeals of the Health Agent's decision.

### **626. DEED RESTRICTIONS**

The Board or its Agent may exclude rooms that otherwise meet the bedroom definition from design flow calculation for proposed uses such as den, study, office, sewing or craft room, family room, gym or workout room, or other similar spaces, and it may conclude that the addition of such rooms shall not be considered new construction or an increase in design flow for purposes of Section 625 or any other provision of these regulations, with an executed and recorded deed restriction limiting the number of bedrooms in the facility to the capacity of the septic system design of record, or sewer allocation for wastewater design flow. Proof of recording shall be provided to the Health Department prior to Health approval of the requested permits.

### **630. SUBPART C: FAILURES AND UPGRADES**

#### **631. CESSPOOLS**

All cesspools, whether single or multiple, or other substandard non-engineered on-site sewage disposal configurations will be considered public health failures upon availability of connection to the municipal sewer or an inspection, whichever comes first.

#### **632. SYSTEM INSPECTION REPORTS**

Inspections that include routine repairs to meet 'pass' criteria (such as distribution box replacement) shall include record of the repair Disposal System Construction Permit documenting such activities.



Owners of shared on-site sanitary sewage disposal systems, such as condominium associations, shall cause to be filed once every three years an Official Title 5 Septic Inspection Report, using the Massachusetts Department of Environmental Protection form and the Provincetown online permitting portal.

Inspections of cesspools or other substandard non-engineered on-site sewage disposal configurations shall report whether the system 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 may be deemed a ‘Public Health Failure’ for immediate sewer connection planning or required to upgrade immediately. Inspections conducted for properties already subject to an ACO will advise the Health Department on the status of the system and whether conditions have deteriorated to require ‘Public Health Failure’ status advancing sewer connection planning.

All leaching facilities that do not maintain a five 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 five feet to estimated high groundwater.

An open inspection of all components is required. If a component cannot be found or uncovered after a reasonable search, the inspector must provide evidence for certifying a “pass” inspection. Any system with H10 components located under parking/driveway areas or with system components inaccessibly located under structures will be considered failed.

For properties that meet the ‘Environmentally Sensitive Area’ definition where the subject land containing subsurface water is less than six feet (6’) below natural ground elevation, the inspectors report of depth to groundwater may rely on an engineered septic system plan of record designed under the 1995 Title 5 code, or a current field determination (hand auger conducted within 5 years).

Where the on-site sanitary sewage disposal of a subject property found by official Title 5 Inspection Report and/or Provincetown Board of Health regulations meets the ‘Environmentally Sensitive Area’ definition of this regulation, it is the Board of Health’s policy that the applicant apply with the Health Department for a ‘Public Health Failure’ determination as priority for sewer connection planning, preferred over on-site sewage disposal upgrades. Local Upgrade Approvals and/or variance requests when sewer connection can be accommodated within wetlands setbacks, areas of elevated groundwater or FEMA mapped as subject to flooding risk will not be granted.

### **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 notice of its availability. 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, and shall be documented with a Disposal System Construction Permit for repairs.

Upon Phase 6 notice of municipal sewer availability, any property owner with a record of an installed engineered subsurface sanitary sewage disposal system that wishes to defer connection must register with an application through the Health Department’s online permitting system to request participation in an inspection

program that will require Official Title 5 Inspection Reports to be filed at a minimum of once every five years, absent other triggers or regulatory requirements for more frequent inspections, commencing twenty years from the date of installation.

Upon Phase 6 notice of municipal sewer availability, any property owner utilizing a cesspool or other substandard non-engineered on-site sewage disposal configuration that wishes to commence with an upgrade must do so with design plans approvable under Title 5 or any successor environmental code and the Provincetown Board of Health regulations, prepared and stamped by a civil or professional engineer, or registered sanitarian. In lieu of making Phase 6 sewer connection, these property owners must obtain a Disposal System Construction Permit within one year of notification for sewer connection.

### **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 to enter into an Administrative Consent Order (ACO), in lieu of immediate upgrade. 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, and documented with a Disposal System Construction Permit.

### **637. REQUIREMENT TO CONNECT TO THE SEWER**

The owners of all properties located within the Wastewater Service Area and who fail to demonstrate that the property is served by a Certified Title 5 Septic System that passed inspection, and who have opted not to connect to the municipal sewer upon its availability shall be required to connect to the municipal sewer unless they have produced an approvable upgrade plan eligible for installation, as outlined in section 610. Subpart A: Disposal System Construction Permit Process. In-cases where a compliant upgrade with a conventional system is not feasible, the owner must connect upon sewer availability.

### **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 (*et. seq.*): 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 dimensioned 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. As clarification to these “new construction” standards, reserve areas of at least equal sizing calculation to the area of the soil disposal system shall be kept open and may not be built upon, with the exception of movable or temporary structures. Building

additions, permanent decks or in-ground swimming pools may not be constructed in a manner precluding use of reserve areas or create non-compliance with meeting the minimum setback distances in 310 CMR 15 et seq.

**643. ADDITIONAL LOCAL UPGRADE APPROVAL REGULATIONS:** Relief from the following regulations shall be requested in the same manner as other Local Upgrade Approval requests. Local Upgrade Approval requests shall not be granted for new construction or for properties that meet the 'Environmentally Sensitive Area' definitions:

1. 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.
2. 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.
3. Mounded or raised systems: The septic tank and the leaching facility must be designed to maintain natural finished grade.
4. Where non-varianced on-site sanitary sewage disposal systems are proposed for properties that meet the 'Environmentally Sensitive Area' definition, the Provincetown Board of Health shall require "Innovative/Alternative (I/A)" technology approved by Massachusetts Department of Environmental Protection (MassDEP) for nitrogen reducing enhanced on-site wastewater treatment, or any successor State Environmental Code requirement to install "best available technology" for denitrification.

#### **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 internal grease traps (aka as 'interceptors') and 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 (*et. seq.*) Abandonment shall be recorded through [an online Abandon](#) Disposal System Permit, for which there is no fee. It is the responsibility of the homeowner or the homeowner's agent to contact the [Department of Public Works](#) for an inspection of the [newly installed sewer connection](#).

#### **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 [as a bedroom or](#) 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 [WASTEWATER](#) SERVICE AREA**

No person shall modify an existing structure located within the [Wastewater](#) Service Area or change its use so as to increase its [design](#) flow [allocation](#) unless 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
- Revised Bedroom Definition, Number of Bathrooms: August 29, 2019
- Revised Mounded or Raised System and Local Upgrade Approval Definition: March 5, 2020
- Revised following Special Town Meeting of Sewer Expansion plans for Phase 6: Public Hearing January 19, 2023, striking out section 634 describing ‘Red Dot Delays’. Effective upon publication of notice, February 2, 2023.