

Westminster Board of Health
Regulations for Subsurface Sewage Disposal Systems-
Chapter 245

Effective 7/1/2023

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245-1. AUTHORITY

In accordance with MGL. Chapter. 111 Section. 31 and MGL. Chapter 21A Section. 13, The Town of Westminster Board of Health (“the Board”) hereby adopts the following local regulations for onsite subsurface disposal of sewage for the purpose of protecting the public health, safety, and welfare, and for the protection of the environment.

The following regulations constitute an exercise of the power of home rule as provided in Amendment Article 89 of the Massachusetts Constitution. As such, they are in addition to the provisions of 310 CMR 15.000 The State Environmental Code Title 5 Standard Requirements for the Siting, Construction, Inspection, Upgrade, and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage (“Title 5”). All minimum offsets and other requirements of Title 5 shall apply unless otherwise hereby indicated in these regulations. All previous local sewage disposal regulations indicated in Chapter 245 of the Code of the Town of Westminster shall be superseded by these regulations.

Any existing requirement of Title 5 not specifically addressed in these regulations shall be deemed to be incorporated herein by reference. Should any such Title 5 regulation be amended, supplemented or modified after the adoption of these regulations so as to render it less stringent than at the time of the adoption of these regulations, such amendment, supplement or modification shall not apply hereunder until and unless the Board votes to adopt such amendment, supplement or modification.

245-2. DEFINITIONS

The following words, as used in these regulations, shall have the following meanings, unless a different meaning is required by the context, or as specifically provided:

Agent - Any person authorized by the Board to act pursuant to MGL. Chapter 111, Section 30, 310 CMR 15.000 and these regulations.

Bedroom – There are 3 tests for calculating number of bedrooms; whichever provides the largest whole number after rounding down is the design criteria.

Test #1.

A room that could provide privacy intended primarily for sleeping, and consisting of all of the following:

1. Floor space of no less than seventy (70) square feet;
2. For new construction, a ceiling height of no less than seven (7) feet three (3) inches;
3. For existing houses and for mobile homes, a ceiling height of no less than seven (7) feet zero (0) inches;
4. An electrical service and ventilation; and
5. At least one window.

Living rooms, dining rooms, kitchens, halls, bathrooms, unfinished cellars, and unheated storage areas over garages are not considered bedrooms.

Test #2.

Single family dwellings shall be presumed to have at least three bedrooms.

Test #3.

Where the total number of rooms for single family dwellings exceeds eight, not including bathrooms, hallways, unfinished cellars, and unheated storage areas, the number of bedrooms presumed shall be calculated by dividing the total number of rooms by two and then rounding down to the next lowest whole number.

The Approving Authority may accept a deed restriction limiting the number of bedrooms to less than the presumed number of bedrooms allowing for a smaller system design.

Board of Health – The Board constituted in accordance with MGL. Chapter. 41, Section 1 and/or Section 1B.

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 is disposed of by seeping or leaching into the surrounding soils, and the solids or sludge is retained in the pit.

Emergency - An event that requires the Board of Health to take immediate action to protect the public health.

Expansion of Use – A change that would result in the increased utilization of the current septic system. Examples include, but are not limited to, increased flows, installation of a large whirlpool tub in a bathroom, any change that may have an effect on how the system is functioning.

Living Space - means the climate controlled area within a Dwelling used for living, sleeping, eating, or cooking purposes. Excludes such areas as closets, garages, attics, and utility spaces.

Lot - A single parcel of land undivided by a street under one ownership with ascertainable boundaries established by a deed of record.

New Construction - The construction of a new building for which a building permit is required, or
An increase in the actual flow or design flow to any system, or
An increase in the actual flow 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 not* include the following:

1. Replacement or repair of a building in existence as of March 31, 1995 that has been totally or partially destroyed or demolished, provided there is no increase in design flow, or
2. No increase in design flow above the existing approved capacity to any system, or
3. No increase in the number of dwellings or dwelling units or no increase in the number of bedrooms in any dwelling or dwelling unit.
4. Also providing there is less than a 25% increase in Living Space.

Rooms - Rooms do not have to be divided by walls as long as there is space for the intended function. Example: An open concept design or floor plan, sometimes referred to as a “Great Room”, typically encompasses a kitchen, dining room, and living room. In such a case the “Great Room” would be counted as 3 rooms for the purpose of the septic design.

Bathrooms, breakfast nooks, unfinished storage rooms, mudrooms, laundry rooms, foyers, and closets are not considered in the total room count.

Shared or Common Septic System - Shall be any privately-owned, on-site, wastewater system that serves more than one lot, more than one principal building, or system's with a designed flow greater than 2,500 gallons per day (GPD). Single Systems serving multifamily homes and Condominiums are shared systems.

Soil Absorption System Perimeter - The area defined by the outer edge of the leaching bed/field, or the outer edge of the leaching trenches of a soil absorption system. This is the same area as is used in Title 5 to calculate the minimum area for the design of a soil absorption system.

245-3. PERMITS

No septic systems shall be installed without a Septic Permit. All permits granted by the Board must be in writing and signed by a representative of the Board.

No work shall be commenced prior to having a signed permit in hand and giving the Board of Health twenty-four (24) hour notice.

245-4. LEACHING AREA MINIMUM SIZE

In the Town of Westminster, all leaching areas shall be 125% increase in Title 5 design criteria. This requirement means a 125% of the design flow required by Title 5. An example would be if Title 5 Requires 440/GPD for a 4 bedroom home, this requirement would require a design to accommodate 550/GPD. $440/GPD \times 125\% = 550GPD$

245-5. INCREASE OF HABITABLE SPACE

A passing, official Title 5 Inspection shall be required upon an increase in habitable space requiring a building permit from the local building inspector, where the estimated cost equals or exceeds thirty percent (30%) of the assessed value of the structure at the time of the application. A Title 5 inspection may be waived by the Agent where the landowner produces a valid Certificate of Compliance issued not more than 10 years prior thereto or a valid Title 5 Inspection Report issued not more than 5 years prior thereto. In either case, no such waiver shall be issued unless the landowner also produces records acceptable to the Agent showing that the system had been pumped at least every 3 years since the issuance of the Certificate of Compliance or the Title 5 inspection, as applicable.

245-6. EASEMENTS AND RETAINING WALLS FOR NEW CONSTRUCTION

No septic system shall be located in whole or in part on a lot other than the lot upon which the facility to be served is located or to be located. No septic system fill shall be placed or located on a lot other than the lot upon which the facility to be served is located.

The use of a retaining wall in the design of a septic system is hereby prohibited. The Board may issue a variance from this prohibition where the applicant can prove to the Board's satisfaction that the retaining wall can be maintained and/or be rebuilt if necessary from the applicant's lot without affecting or encroaching on abutting property. A survey may be required to delineate the property line.

245-7. INTERPRETATION OF INSPECTION RESULTS

A Title 5 Inspection, including a passing Title 5 Inspection Report, shall not be interpreted as establishing that the system is or will function properly, and the Board reserves the right to undertake such enforcement action as it deems appropriate with regard to an improperly functioning system notwithstanding such a passing Title 5 report.

245-8. EMPLOYMENT OF OUTSIDE CONSULTANTS

In accordance with MGL. Chapter. 44, Section 53G, the Board may require an applicant for a subsurface disposal system to deposit funds for the employment of outside consultants. The applicant shall have the right to an administrative appeal from the selection of the outside consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in or related to the field at issue.

245-9. SHARED AND/OR COMMON SYSTEMS

Except for Town owned systems, shared and/or common subsurface disposal systems are hereby prohibited. Any sewage disposal systems must be located on the same lot as the dwelling or facility it serves. The Board may issue a variance from this prohibition of shared or common systems where an existing system has failed or is otherwise in need of repair or replacement, and due to soil or lot conditions, it is not feasible to replace the system with an individual system. The landowner shall have the burden of establishing that an individual system is not feasible. Any shared and/or common system approved by variance or any system that becomes a shared and/or common system by virtue of a conversion of the property to condominium ownership, shall be subject to a financial security agreement providing for the ongoing repair, upgrade, and replacement of the system in a form and on terms acceptable to the Board.

245-10. LENGTH OF VALIDITY OF SOIL TESTS

Percolation tests and deep hole observation tests shall expire two (2) years after the date of completion. Written requests for extensions may be allowed on a site-specific basis provided that the location of the percolation test and deep hole observation tests can be located from known and recoverable reference points or benchmarks so that it may be located on the system design plan within one (1) foot, and that there have been no alterations of the area, adjacent areas, or other changes that may have compromised the validity of the tests.

245-11. PERCOLATION AND SOIL TESTING

Westminster Board of Health requires a minimum of two (2) passing percolation tests during soil evaluation.

Percolation and soil testing shall be allowed to be conducted year round. On lots where it is difficult to determine the estimated seasonal high water table by soil mottling, the Board may require a groundwater-monitoring well to be installed on the lot for confirmation of the estimated seasonal high water table. The type, design, time, duration, and other specifics of the monitoring wells will be left to the discretion of the Agent and/or the Board.

No primary or reserve leaching area shall be sited within 25' from an abandoned or unsuitable deep observation hole or unsuitable percolation test unless additional testing shows acceptable soil less than the 25' radius.

When the system design includes the reserve between the primary trenches, there needs to be two (2) acceptable percolation tests within 10 feet of the soil absorption system perimeter, with one (1) being within the perimeter.

When the system design includes the reserve being separate from the primary system, there needs to be one (1) acceptable percolation test within the soil absorption system perimeter and one (1) within the designated area for the reserve.

When the percolation tests are not consistent the Agent may require additional testing in order to assure proper sizing of the system.

245-12. DESIGN, CONSTRUCTION, AND CERTIFICATE OF COMPLIANCE

1. All piping, including the perforated leaching area pipe, shall be a minimum Schedule 40.

Except when indicated otherwise by Title 5, every septic tank shall be equipped with an effluent outlet tee filter approved by the Department of Environmental Protection.

Access ports for gaining access to D-Box and Tanks must be within 6 inches of final grade

All distribution boxes installed shall be H-20 Loading Rate or equivalent.

All Systems utilizing pump chambers shall have a system operation manual posted in immediate proximity to the alarm panel so the homeowner can access it.

A septic plan shall contain a provision for pumping the tank if the vertical distance between the bottom of the septic tank and the elevation where the pumping truck is located is great than 28 feet.

All septic plans shall contain a change/revisions log. No changes from the original submitted plan will be deemed approved unless each change has been initialed by the approving authority.

All submittals of plans and documents including as-builts shall also include an electronic PDF file.

2. All subsurface sewage disposal systems shall have the following minimum inspections as required by the Board.
 - a. Initial inspection prior to filling the leaching area with fill (bottom of the bed/trench)
 - b. Completed system prior to backfilling
 - c. Final Grading inspection

The agent may require additional inspections at his/her discretion.

3. The Designer's As-Built Plan shall be prepared in accordance with Title 5's requirements, include final grading elevations, and submitted in triplicate. The As-Built shall also be submitted on compact disc or in PDF format.
4. The Installer's As-Built Plan shall be prepared on a form provided by the Westminster Board of Health.
5. Prior to the issuance of a Certificate of Compliance by the Board of Health, the applicant or the system installer shall provide the designer's As-Built drawing in a form specified by the Board as a permanent document (laminated) at a location in the dwelling near the building sewer exit location or electrical service entry, which shows the location of the septic tank, distribution box, leaching area, and well on the lot, where applicable.
6. No Certificate of Compliance will be issued until such time as the building is complete enough to ascertain the number of bedrooms and bathrooms.

245-13. SYSTEMS CONSTRUCTED WITHIN WATER SHED PROTECTION AREAS

The Westminster Board of Health reserves the right to modify these regulations and treat each system in Drinking Water and/or Watershed Protection Areas in the Town separately to assure the Health and General Welfare of individuals using this resource.

Nitrogen effluent treatment is required when one or more of the following variances are granted:

- A reduction to ground water in an area serviced by wells or adjacent to a body of water or resource area
- A reduction to the distance from a body of water or resource area.
- A reduction to the required well setback.
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ANYONE PLANNING ON SITING A SYSTEM IN THESE AREAS SHOULD CONTACT THE HEALTH AGENT TO DETERMINE IF ADDITIONAL REQUIREMENTS MAY BE REQUIRED.

245-14. SEPTIC TANK PUMPING PROGRAM

It is recommended that every subsurface disposal system septic tank be pumped when the sludge exceeds one-quarter (1/4) of the tank's depth or once (1) every three (3) years, whichever occurs sooner. For multi-family dwellings, including condominiums, apartments, motels, hotels, and boarding houses, the septic tank shall be pumped at least once (1) every year. The owner of any such multi-family dwelling shall provide to the Board written proof of such annual pumping, by paid invoice or other suitable documentation from a septage hauler who has a valid Massachusetts permit, on or before February 1 of each year, for the preceding calendar year.

245-15. SETBACK REQUIREMENTS

No sewage disposal system shall be installed within one-hundred (100) feet of any watercourse, stream, brook, river, pond, or wetlands. For any system, the distances required by Title 5 and these regulations are minimum distances which may be increased if, in the opinion of the Agent, such an increase is required to protect the environment or the public health.

245-16. DEVIATIONS FROM APPROVED PLAN

The applicant shall install the subsurface disposal system in strict conformity with the approved plan. Minor deviations from the approved plan may be permitted by the Agent where the designer submits, in writing, a statement setting forth the deviation and affirming that the deviation does not affect the plan's compliance with these regulations. All such deviations shall be shown on the as-built plans.

245-17. FILING WITH REGISTRY OF DEEDS

Reference in Title 5

- | | |
|--|-----------------------------------|
| 1. A smaller number of bedrooms than presumed by Title 5 | 15.002 <u>Bedroom</u> |
| 2. Open space created in a Cluster Development | 15.002 <u>Cluster Development</u> |
| 3. A home with less than 330 GPD flow | 15.203 |
| 4. The number of bedrooms in a Condominium | 15.203 |

- | | |
|--|---------------|
| 5. Installation of a tight tank | 15.260(6) |
| 6. Installation of an alternative technology | 15.287(10) |
| 7. Installation of a shared system | 15.290(2)(e) |
| 8. for Large Systems demonstration of an equal level of environmental protection | 15.304(3)(b)6 |
| 9. A variance issued for which a deed restriction is required | 15.413(1) |
| 10. Facility Aggregation Plans | 15.216(5)(a)2 |

245-18. POSSESSION OF PLAN AND PERMIT

All installers of subsurface disposal systems shall have a copy of the stamped, approved plan in their possession on the site while installing the system, which shall be available to the Agent at the time of any inspection.

245-19. EXTENSIVE REHABILITATION OF AN UNOCCUPIED DILAPIDATED STRUCTURE

Where an existing, unoccupied, dilapidated structure is proposed for redevelopment (rehabilitated, renovated, reconstructed, or remodeled) the septic system must have been designed and installed in compliance with the then-current Title 5 regulations and the owner shall provide a current "passed" Title 5 inspection.

245-20. REVOCAION

The Board reserves the right to revoke any approval, permit, or Certificate of Compliance which is found to be based on incorrect, incomplete, or misleading information after notice to a hearing before the Board.

245-21. TITLE 5 SYSTEM INSPECTORS

All Title 5 inspections must be witnessed by the Agent, unless a waiver is granted. All items included in a Title 5 Inspection report must be personally witnessed by the inspector, including but not limited to:

1. The number of bedrooms,
2. The laundry facilities,
3. Any water filtration systems
4. The presence of a garbage grinder

The report shall specifically identify the source of the information in the report. Example: "Plan located at Board of Health dated 5/16/2005", or "septic plan from homeowner dated 5/16/2007". The Agent must be notified at least seventy-two (72) hours in advance of any proposed inspection.

245-22. TITLE 5 INSPECTIONS

1. All seepage pits must be located and inspected
2. All cesspool systems shall constitute as an automatic failure
3. The Board or its agent may request a soil evaluation by a State Certified Soil Evaluator for any Title 5 inspection
4. Private Wells must be tested as Part of the Title 5 inspection
5. Ground water determination may be accomplished with the concurrence of the Agent in the following ways:
 - a. Perc Test/ soil evaluation data done after October 1995
 - b. Soil evaluation from nearby lot.
 - c. Observe below the deepest component to show it is not sitting in groundwater.
 - d. The location/elevation of the system in proximity to a body of water or wetland.
 - e. Other evidence of water table levels, i.e. sump pump, shallow well, lake level etc.
 - f. Other methods listed in Title 5 inspector training book

Repairs to sanitary tees and the installation of risers do not need a Disposal Works Construction Permit from the Board. All other repairs will need a permit and require a licensed installer.

245-23. TITLE 5 INSPECTORS PERMIT

No individual shall engage in a Title 5 inspection without first obtaining a Title 5 Inspectors Permit from the local approving authority. Title 5 Inspectors Permits shall be issued for a period of not more than a year and expire on December 31st of each year. The local approving authority shall issue Title 5 Inspectors Permits only to those individuals who are currently licensed by the Commonwealth of Massachusetts and have demonstrated knowledge and experience required for the inspection of sewage disposal systems in accordance with 310 CMR 15.000 and Local Regulations. The local approving authority, by issuance of an order, may suspend or revoke a Title 5 Inspectors Permit, for a time specified in the order, when it determines that the Inspector has failed to comply with 310 CMR 15.000 and/or local regulations.

245-24. PLAN APPROVAL AND CONSTRUCTION PERMIT EXPIRATION

All plans approved and construction permits granted shall lapse three (3) years from the date of endorsement or issuance unless a Certificate of Compliance has been issued. If a Plan or Permit lapses, the applicant shall file a new application and meet the then-current regulations. The Board may issue one extension, for a period of no more than one (1) year, provided that the application for such extension is filed prior to the lapse of the permit.

245-25. WIRING

Systems requiring power and/or alarms need a wiring permit and must meet all applicable requirements. Additional requirements:

1. All pumps need to be hard wired -NO PLUGS-
2. No plugs in pump chamber
3. All alarms need to be hard wired and on their own circuit.

245-26. ENFORCEMENT

A fine of \$50/day will be imposed on anyone who knowingly violates the State and/or the Town's Sanitary Code

245-27. TIGHT TANKS

Tight Tanks may be allowed per 310 CMR 15. Each Tight Tank shall have an alarm capable of transmission of the alarm signal to a locus manned 24 hours per day or an Alarm with a strobe light and audible alarm on the front of dwelling visible from the street with a placard with a phone number to call.

245-28. SUBDIVISION OF PROPERTY

Prior to Westminster Board of Health approving any division or subdivision of any property served by an onsite sewage disposal system, the applicant must have a valid passed Title 5 inspection as well as valid soil testing that shows it is possible to upgrade the existing system after the division or subdivision. Reference 310 CMR 15.301(8). The division or subdivision cannot create the need for a variance to 310 CMR 15 or Westminster Septic Regulations or Westminster Well Regulations.

245-29. VARIANCES

There will be no variances for New Construction.

The Board may, grant a variance to any provision, other than for New Construction, of this regulation when, in its opinion, the enforcement would result in manifest injustice, and the applicant has demonstrated that the equivalent degree of protection will be provided without strict application of the particular provision(s) sought to be varied.

Every request for a variance shall be in writing shall state the specific provision of this regulation from which variance is sought and the reasons for seeking the variance. The request shall also contain the information to establish manifest injustice and equivalent degree of protection. All requests for variances and supporting documents must be submitted to the Board ten (10) days prior to the hearing.

The Board may issue a variance subject to such conditions as it deems necessary to public health, safety, welfare, or the environment. Any such conditions shall be stated in writing in the Board's grant of the variance. The Board may revoke, modify or suspend, in whole or in part, a variance after the property

owner has been notified in writing and is afforded an opportunity to be heard, pursuant to Section 245-32 of these regulations.

245-30. SEVERABILITY

If any provision of these regulations or the application thereof is held to be invalid by a court of competent jurisdiction, the invalidity shall be limited to said provision(s) and the remainder of these regulations shall remain valid and effective. Any part of these regulations subsequently invalidated by a new state law or modification of an existing state law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and the customary procedures for amendment or repeal of such regulation.

245-32. DISCLAIMERS

The issuance of a Septic Permit shall not be construed as a guarantee or certification by the Board or its agents that the septic system will function satisfactorily.

Suspension or Revocation

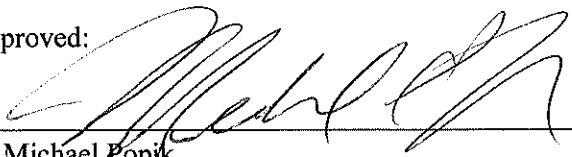
The Board of Health may suspend or revoke any permit issued under the provisions of this regulation wherever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or if it is in violation of any bylaw, regulation, or any of the provisions of this code.

Notification shall be verbal or written, when verbal, it must be followed by a written notification within forty-eight (48) hours. All work must be stopped immediately upon notification, unless otherwise allowed by the Board. Any person issued a written notice of suspension or revocation may request within seven (7) days and shall be granted a hearing on the matter before the Board of Health within thirty (30) days after written receipt of the request. Permits shall not be reinstated or reissued until all conditions for which they were revoked or suspended have been corrected in accordance with the specific stipulations of the Board of Health.

245-31. EFFECTIVE DATE

These regulations were adopted by vote of the Westminister, Massachusetts Board of Health, at their regularly scheduled meeting held on _____, 2023 and are to be in full force and effect on and after ___7/1_____, 2023. Before said date, these regulations shall be published and a copy placed on file in the Board of Health Offices and filed with the Department of Environmental Protection, Division of Wastewater Management in Boston. These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board, as provided by law and applicable regulations.

Approved:



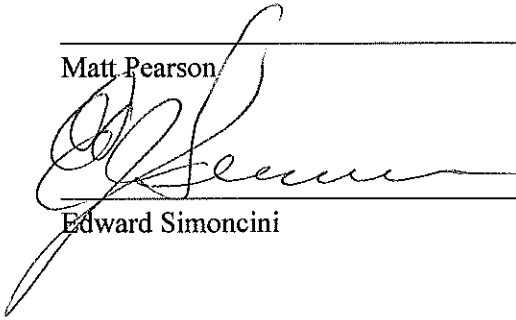
Dr Michael Popik



Date

Matt Pearson

Date



Edward Simoncini



Date