

**Town of Ware  
Board of Health**

Regulations for Percolation Tests, Soil Evaluations, Design, and Technical Review of Subsurface Sewage Disposal Systems

Section 1: Authority- The Ware Board of Health adopts these regulations under the authority which includes, but is not limited to one or more of the following: Massachusetts General Laws, Chapter 111, Sections 31, 122, 122A, 127, 187, Sections 310 CMR (Code of Massachusetts Regulations) 11.02 and Chapter 21A, Section 13 of the Massachusetts General Laws; Board of Health regulations are an exercise of the power under which the various levels of government are responsible for protection of the public health, safety, welfare, and the environment.

Section 2: Purpose- It is the purpose of these regulations to protect the public health safety, welfare and environment by requiring the proper site, design and review of on site sewage disposal systems in consideration of needs and conditions specific to the Town of Ware.

This regulation of the Board of Health has been enacted for the purpose of protection of the citizens of the Town of Ware and also the protection of the environment. The Town of Ware relies upon on-site subsurface systems for the disposal of sewage in 50% of the town. It relies solely upon ground water for its water supply, from either public or private on-site wells. There are considerable areas of severe geologic conditions which consist of poorly drained soils, severely drained soils in contributing areas to the water supply, shallow soil depth to fractured ledge and ground water, wetlands, flood plains. There is one major lake, and two major rivers within the town, resulting in sensitive conditions in those areas. Local Board of Health regulations are necessary to assure more complete protection from sewage overflows to the ground surface, which are sources of filth and disease, and also to assure more complete protection from potential pollution of ground water, wells, surface waters, and wetlands. Local regulations are also necessary for purposes of efficient administration and management, as well as for additional guidance in the process of construction of septic systems. These regulations do not conflict with Title 5, but rather complement them, and provide additional guidance.

It is also the purpose of these regulations to codify previously adopted regulations pertaining to subsurface sewage disposal in the Town of Ware.

Section 3- Definitions:

Approving Authority- The Ware Board of Health or its authorized agent or an agent of a Health district constituted pursuant to M.G.L. c. 111, § 27 acting on their behalf.

Deep Observation Hole/ Soil Evaluation - An open pit dug to permit examination of the soils and to obtain data relative to the mean annual high groundwater elevation.

Disposal System Construction Permit or Permit - Written approval issued by the approving authority in accordance with 310 CMR 15.020 authorizing the construction, upgrade or expansion of an on-site system.

High Groundwater Elevation - as determined in accordance with 310 CMR 15.103, 15.104, and 15.107.

(a) Inland - The elevation above which in eight out of ten consecutive years the groundwater table does not rise. This elevation is commonly, but not invariably, reached during the months of December through April.

(b) Coastal - For groundwaters influenced by tidal action, the average of the monthly spring tide high groundwater level as recorded over the most recent consecutive 19-year period.

Leach Area/ Soil Absorption System - A system of trenches, galleries, chambers, pits, field(s) or bed(s) together with effluent distribution lines and aggregate which is installed in appropriate soils to receive effluent from a septic tank and transmit it to the soil interface for treatment in a biological mat and disposal to the underlying soils.

New Construction - the construction of a new building for which an occupancy permit is required or an increase in the actual or design flow to any nonconforming system or to any other system above the existing approved capacity.

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

(a) The standard components of a system are: a building sewer; a septic tank to retain solids and scum; a distribution box; a soil absorption system containing effluent distribution lines to distribute and treat septic tank effluent prior to discharge to appropriate subsurface soils; and a reserve area.

(b) These terms also include tight tanks, shared systems and alternative systems.

Percolation Test - A field test to assess the suitability of soils in a defined area for the subsurface disposal of sewage as described at 310 CMR 15.106 and 15.107.

Repair - The repair of a system that is necessary to prevent sewage backup into a building, surface breakout of sewage, or to alleviate an imminent danger to public health, safety or the environment in accordance with 310 CMR 15.353.

Reserve Area - An area of land with demonstrated capacity for subsurface sewage disposal upon which no permanent structure shall be constructed and which is intended for replacement of the principal system should it fail.

Site Suitability Testing-

Subsurface Drain - Any underground conduit used for the underground conveyance of surface or groundwater, including, but not limited to, stormwater culverts, curtain drains and French drains.

Surface Water - All waters other than groundwaters within the jurisdiction of the Commonwealth, including without limitation, rivers, streams, lakes, ponds, springs, reservoirs, impoundments, estuaries, wetlands, coastal waters and certified vernal pools.

#### Section 4: Percolation Tests/Soil Evaluations

- 4.1 Soil Evaluations for new construction shall be conducted only during the period of March 15<sup>th</sup> thru June 15<sup>th</sup> ( adopted 1-6-86) and September 15<sup>th</sup> thru November 15<sup>th</sup> ( adopted 9-21-05 ) each year.
- 4.2 The percolation test portion of site suitability testing may be conducted year round provided the soil in which the percolation test (water draining) is not frozen.
- 4.3 Soil Evaluations and Percolation testing for the repair of existing subsurface sewage disposal systems may be conducted year round at the discretion of the approving authority.
- 4.4 Fees and applications for site suitability testing shall be charged, processed, and scheduled according to polices established by the approving authority.
- 4.5 The approving authority reserves the right, in applicable situations, to postpone any scheduled site suitability testing until such time as a Determination of accicablity to the Wetland Protection Acts has been filed and approved by the Ware Conservation Commission.
- 4.6 All records and permits pertaining to per tests and septic systems shall accurately state the owner of record of the parcel at the time testing was performed or permits sought. (adopted 10-5-93)

#### Section 5: Siting Requirements – In addition to the requirements of Title V (adopted 3-18-76)

- 5.1- Wells must be 25 feet from lakes, rivers, brooks, and other bodies of water
- 5.2 Wells must be 25 feet from lot line or roadway
- 5.3 Wells are to be installed prior to the installation of the septic system
- 5.4 Leach areas must be at least 100 feet from wells, lake, brook, adjoining wells and other bodies of water
- 5.5 Future space for leach must be included in the original plans in case the leach fails
- 5.6 Property must be staked out for measurement purposes
- 5.7 Final plans precisely locating the septic system with respect to the house and or property lines will e required providing the original proposal has changed. No construction of housing shall be initiated until septic tank permit is issued.
- 5.8 Minimum size septic tank to be no less than 1500 gallons.

#### Section 6: Technical Review/ Establishment of Special Accounts and Authority to Impose Fees For Consultants ( adopted 9-21-05 ):

- 6.1 As provided by MGL c. 44, § 53G, the Ware Board of Health may impose reasonable fees for the employment of outside consultants engaged by the Board of Health for review of any application submitted to the Board of Health pursuant to the requirements of the Subdivision Control Law, the State Environmental Code or any

other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.

- 6.2 Deposit of funds in special account. Funds received by the Board of Health pursuant to this regulation shall be deposited with the Town Treasurer, who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Board of Health without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of the permit application.
- 6.3 Notice of selection of consultant. The Board of Health shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant and the amount of the fee to be charged to the applicant. Such notice shall be deemed to have been given on the date it is mailed or delivered.
- 6.4 Appeal by applicant. The applicant may appeal the selection of the outside consultant to the Board of Selectmen, which may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Board of Selectmen, and a copy received by the Board of Health, within 10 days of the date of the notice of the selection of the consultant. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

#### Section 7: Variance-

- 7.1 Variance request to these regulations shall be in writing and include specific, documented reasons as to why, in the opinion of the requester, strict adherence to these regulations would manifest injustice.
- 7.2 Variances must be approved by a majority of the Ware Board of Health at a duly held meeting.

Section 8: Enforcement- The Ware Board of Health and its agents shall utilize all appropriate means of enforcement at their disposal, including but not limited to, non-criminal disposition of fines, criminal and civil action including the maximum fines allowable by current law, and the revocation and or suspending of licenses or permits issues by the Ware Board of Health.

#### Section 9- Severability-

If any section, paragraph or part of these regulations is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force.

Section 10: Relationship to other laws-

Nothing in these regulations shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of Ware regulations bylaws or Commonwealth of Massachusetts laws or code of regulations, or be construed as a limitation of the Emergency Powers of the Ware Board of Health and/ or their agents.

\_\_\_\_\_ Chair

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Voted/ Adopted on \_\_\_\_/\_\_\_\_/\_\_\_\_ Published on \_\_\_\_/\_\_\_\_/\_\_\_\_

DEP Registered on \_\_\_\_/\_\_\_\_/\_\_\_\_