

**TOWN OF MASHPEE
BOARD OF HEALTH**

**INNOVATIVE/ALTERNATIVE ON-SITE
SEPTIC SYSTEMS REGULATION**

I. PURPOSE

The Mashpee Board of Health (hereinafter referred to as “the Board”) promulgates the following regulation for the use of Alternative Septic Systems within the Town of Mashpee. While the Board recognizes Alternative Septic Systems as an opportunity to maintain and improve the quality of groundwater and surface water resources, they consider the proper management of such systems to be essential. The purpose of this regulation is to ensure the proper maintenance, operation and performance tracking necessary to both protect the public health and the environment and to assist the Board in continuing to evaluate the efficacy of Alternative Septic Systems.

II. AUTHORITY

These regulations are enacted by the Board under authority which includes, but is not limited to, one of the following: M.G.L. c. 111, §§31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 15.000, and 310 CMR 11.000. Mashpee Board of Health Regulations are an exercise of police power under which the various levels of government are responsible for the protection of public health, safety and welfare.

III. DEFINITIONS

Alternative Septic Systems – Systems designed to provide or enhance on-site sewage disposal which either do not contain all of the components of an on-site disposal system constructed in accordance with 310 CMR 15.100 through 15.293 or which contain components in addition to those specified in 310 CMR 15.100 through 15.293, and which are proposed to the local approving authority and/or the Massachusetts Department of Environmental Protection (hereinafter referred to as “the Department”) for remedial, pilot, provisional, or general use approval pursuant to 310 CMR 15.280 through 15.289.

Approval Letter – A letter issued by the Department pursuant to 310 CMR 15.280-15.289 specifying the type of system and type of approval granted by the Department. The letter is signed, dated and bears the period of approval.

Building – Any structure on a facility connected to a subsurface disposal system.

Facility – Any real property (including any abutting real property) and any buildings thereon, which is served, is proposed to be served, or could in the future be served, by a system or systems, where: (a) legal title is held or controlled by the same owner or owners; or (b) the local

Approving Authority or the Department otherwise determines such real property is in single ownership or control pursuant to 310 CMR 15.011 (aggregation).

General Use Approval – An approval of an Alternative Septic System by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.288, and having an Approval Letter issued by the Department.

New Construction – The construction of a new building for which a permit is required or an increase in the actual or design flow to any system, or an increase in the actual or design flow to any nonconforming facility system, or an increase in the design flow to any facility system above the existing approved capacity. New construction shall include replacement or repair of any building in existence that has been totally or partially destroyed or demolished, including all raze and rebuilds.

Nitrogen Sensitive Area – An area of land and/or natural resource area so designated by the Department in accordance with 310 CMR 15.214.

Nonconforming Facility System – Any system on a facility which is not in full compliance with the standards and requirements of 310 CMR 15.000 and Mashpee Board of Health Regulations.

Provisional Use Approval – An approval of an Alternative Septic System by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.286, and having an Approval Letter issued by the Department.

Remedial Use Approval – An approval of an Alternative Septic System by the Massachusetts Department of Environmental Protection in accordance with 310 CMR 15.284, and having an Approval Letter issued by the Department.

IV. APPLICABILITY

This regulation shall apply to all on-site sewage disposal systems located or proposed to be located in the Town of Mashpee. This regulation shall require the installation of I/A Septic Systems to be installed on all new construction, increase in flow, and any other installation or upgrade of a septic disposal system within 1000 feet from surface waters (including lakes, ponds, streams and creeks), freshwater or coastal wetlands, bordering vegetated wetlands, salt marshes, inland and coastal banks (whichever of the preceding resource areas is closest), or other resource areas as defined in Mashpee Board of Health Regulations. When a I/A Septic System is being installed on a facility then all systems on the facility shall be connected to the I/A Septic System or be upgraded to an additional I/A Septic System.

V. REGULATION

1. Application Requirements

- a) All applications for installation of Alternative Septic Systems shall include a copy of the most recent Approval Letter for the technology being proposed. The application for a Disposal System Construction Permit shall clearly indicate the approval under which the applicant wishes to submit the application. Any application submitted without the Approval Letter shall be considered incomplete.
- b) All applications for installation of Alternative Septic Systems shall include a copy of the Service Contract that identifies the name of the company being retained by the owner of record for the maintenance services. No Certificate of Compliance shall be issued until a service contract, signed by an authorized representative from the maintenance contractor is submitted to the Board. The service contract must meet the requirements specified in the technology Approval Letter.
- c) I/A Notice of Disclosure shall be recorded with the Registry of Deeds and/or Land Registration Office, and a copy submitted to the Board prior to issuance of the Certificate of Compliance.
- d) All systems failing to meet a 75 foot setback from surface waters (including lakes, ponds, streams and creeks), freshwater or coastal wetlands, bordering vegetated wetlands, salt marshes, inland and coastal banks (whichever of the preceding resource areas is closest), or other resource areas as defined in Mashpee Board of Health Regulations shall specify the installation of an Alternative Septic System with a disinfection unit for the effluent prior to discharge to the leaching facility. Disinfection shall achieve a reduction of fecal coliform to less than 200 colonies per milliliter of fecal coliform per 100 milliliters of sample.
- e) Residential Alternative Septic Systems installed in nitrogen sensitive areas shall remove nitrogen to a standard of <19 mg/L of total nitrogen. Commercial properties with Alternative Septic Systems within nitrogen sensitive areas shall remove nitrogen to a standard of <25 mg/L of total nitrogen.
- f) All applications specifying an Alternative Septic System and disinfection unit shall include the technical specifications of the unit and their requirements for maintenance.

2. Installation Requirements

- a) All electrical components of Alternative Septic Systems shall be supplied with a run-time meter that indicates the duration of time in which power is supplied to the system.
- b) All maintenance components of the Alternative Septic System, including but not limited to disinfection units, pumps, filters, alarms, level floats, and inspection covers shall be made accessible. A representative from the Alternative Septic System Company shall demonstrate to the System Designer on record accessibility to said components prior to the issuance of a Certificate of Compliance.

3. Monitoring Requirements

- a) All Alternative Septic Systems approved for installation by the Board shall be monitored and maintained according to requirements stated in the respective DEP Approval Letter. Laboratory sampling shall be determined at the discretion of the Board.

- b) All disinfection units shall be monitored, maintained and tested annually for fecal coliform for the life of the system. The monitoring and testing of disinfection units shall be stated in an operations and maintenance contract with a minimum timeframe of one year by a Department certified wastewater treatment plant operator (class is determined by the Department of Environmental Protection). The contract shall be provided to the Board prior to issuance of the Certificate of Compliance or according to Section 4(a).
- c) All required analysis shall be performed by a laboratory certified by the Department for the parameters analyzed.
- d) Effluent tee filters shall be monitored and maintained according to manufacturer's recommendations, but annually at a minimum.
- e) Sampling shall be performed from a sampling point after treatment (the distribution box or in the case of pressure distribution from the pump chamber). The access point shall be at grade and secured against unauthorized entry.
- f) Systems installed with pressure distribution shall be inspected annually by a wastewater treatment plant operator via an annual written contract (class is determined by the Department of Environmental Protection). The contract and inspection report shall be provided per Section 4(a).

4. Reporting Requirements

- a) In addition to reporting requirements specified in Approval Letters issued by the Department, reports of all monitoring and maintenance of Alternative Septic Systems shall be submitted to the Mashpee Board of Health and the Barnstable County Department of Health and the Environment, in the manner and format required by each of those entities. Reports shall be submitted quarterly during the period required for monitoring.
- b) Maintenance reports shall specify the run time of all electrical components. This shall be expressed in daily run time and shall be calculated using readings from the run time meter. All calculations shall be shown in the submitted report.
- c) Water use shall be reported in gallons for the period between maintenance/inspection events.

5. Conditions for Use of Humus/Composting Toilets

Humus/Composting Toilets are certified for non-remedial use subject to the conditions set forth at 310 CMR 15.289(3)(a), where a system in full compliance with 310 CMR 15.000 and Mashpee Board of Health Regulations could otherwise be installed on the site, and shall be approved by the Massachusetts Plumbing Code.

6. Dewatered Percolation Tests

Dewatered Percolation Tests are prohibited in the town of Mashpee.

VI. VARIANCE

The Board, in any particular case and following a public hearing, may vary any provision of this regulation when, in its opinion, any of the following exists:

- a) The same degree of environmental protection required under 310 CMR 15.000 and this regulation may be achieved without strict application of the particular provision or provisions requested to be modified.
- b) Strict enforcement of a provision would cause undue hardship and manifest injustice.
- c) Such a variance is in the public interest and not inconsistent with the intent or purpose of 310 CMR 15.000 or this regulation.

VII. ENFORCEMENT

The Board, under the authority of M.G.L. c. 111, §31, 310 CMR 11.000, and other governing laws may issue administrative enforcement orders, violation notices, and other documents to enforce the provisions of this regulation. In addition, the Board may pursue criminal or non-criminal prosecution, civil litigation or a combination of these in the courts of the Commonwealth of Massachusetts to enforce the provisions of this regulation.

VIII. PENALTIES

Any penalty for failure to comply with any provision of this regulation shall be governed by applicable Massachusetts General Laws, including Chapter 111, Section 31. Each day of the violation shall constitute a separate offense. Further, the Board, after notice to and after public hearing thereon, may suspend, revoke or modify any license or permit issued for due cause.

IX. 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.

X. EFFECTIVENESS

This regulation shall become effective upon publication in a newspaper of general circulation.

Per Order Of,
Mashpee Board of Health

Ernest Virgilio, Chairman
John Livingston, Co-Chairman
Edward Raposa, Clerk

Adopted: November 16, 2000

Revised: June 27, 2019; April 4, 2023 (Adv 4/7/23); January 3, 2024 (Adv 1/12/24); January 7, 2024 (Adv 2/9/24)