

RULES AND REGULATIONS OF THE BOARD OF HEALTH

**Article 1301: SUBSURFACE DISPOSAL SYSTEMS
RULES AND REGULATIONS**

1301.1 INTENT AND PURPOSE

It is the intent of this section to ensure that sewage is handled in a manner as to protect the public health, safety and welfare of the community. (This regulation, upon its adoption, replaces Article 17.10 "Installation of New Sewage Disposal Systems: adopted March 12, 1986 and Article 17.20 "Repair and/or Replacement of Existing Sewage Disposal System" adopted July 22, 1987.

1301.2 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicate or requires a different meaning.

A. "Aquifer" shall mean the same as defined in the Town of Kingston Ordinances Article 201.2.A.

B. "Aquifer Protection District" shall mean the same district as defined in the Town of Kingston Ordinances Article 201.3.A.

C. "Bedroom" - For the purposes of the subsurface disposal system:

1. The term "bedroom" as it applies to a residential structure built prior to the adoption of this regulation shall comply with RSA 438A:2.XX or its successor.
2. For all residential structures acquiring a building permit after the adoption of this regulation, the term "bedroom" shall mean any portion of a dwelling which is so designed as to furnish the minimum isolation necessary for use as a sleeping area and includes, but is not limited to, bedroom, den, study, sewing room, sleeping loft or any other space in a building that could be used as habitable space, but does not include kitchen, bathroom, living room, dining room or halls.

- D. “Effluent Disposal Area”** (EFD) shall mean the leaching portion of any sewage disposal system.
- E. “In Kind”** shall mean that the size, location, depth and type of design shall be as existed before repair and/or replacement and that the proposed use will not change or the flow will not increase.
- F. “Innovative/alternate technology system”** (ITA) shall mean a Presby Environmental Inc., enviro-septic® wastewater treatment system which has been granted an approval as an ITA by NHDES.
- G. “Isolation”** shall mean the act of being separated from all normal household activities and being able to remain undisturbed for a period of time.
- H. “Person”** shall mean any individual, partnership, corporation or other entity.
- I. “Plans and Specifications”** shall mean any drawings, documents or plans upon which the design and construction of the proposed installation of the subsurface disposal system is to be based.
- J. “Sewage Disposal System”** shall mean any septic tank, leach field, dry well, any pipes, conduits, or other equipment used in conjunction with any of the above and associated with the removal, disposal or carrying away of sewage and other waste products.
- K. “Shoreland Protection District”** shall mean the same district as defined in the Town of Kingston Ordinances Article 205.3.
- L. “Subsurface Disposal System”** shall mean the same as Sewage Disposal System.
- M. “Unit”** shall mean the area intended to be used by an individual family (single family home, apartment, 1/2 a duplex, etc.) or the area occupied by a single business.
- N. “Vertical Separation Distance”** shall mean the distance between the seasonal high water table or bedrock or other impermeable surface to the bottom of the ITA pipe.

O. **“Wetlands”** shall mean the same as defined in the Town of Kingston Ordinance Article Preamble II:B, Definitions.

P. **“Wetlands Conversation District”** shall mean the same as defined in the Town of Kingston Ordinances Article 202.B.

1301.3 NEW SUBSURFACE DISPOSAL SYSTEMS

A. Any person, who intends to install a new sewage disposal system, shall first submit plans and specifications for such work to the Health Officer for his review and approval prior to the commencement of any construction.

B. Following the Submission of the plans and specifications to the Health Officer, the Health Officer shall inspect the site of the proposed installation to confirm compliance with applicable New Hampshire State Statutes, Water Supply and Pollution Control Regulations and the Ordinances and Regulations of the Town of Kingston.

1301.4 REPAIR/REPLACEMENT OF EXISTING SUBSURFACE DISPOSAL SYSTEMS

A. Any person who intends to repair and/or replace an existing subsurface disposal system or who intends to repair and/or replace any portion of an existing subsurface disposal system shall first make application to the Health Officer.

B. An existing septic tank may be replace with a tank of the same size or larger only after the approval of the local Health Officer has been obtained.

C. An existing residential subsurface disposal system may be repaired or replaced “in kind” after proper verification as defined by Chapter Env-Wq 1003.10 of the New Hampshire Code of Administrative Rules.

1301.5 PLANS AND SPECIFICATIONS

A. At the time of submission of the plans and specifications to the Health Officer, the applicant shall:

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1. Submit four (4) copies of the plans and specifications for each subsurface disposal system proposed.
 2. Submit a copy of the application and all requests for waivers required by the State.
 3. Pay to the Town a permit fee of \$75.00 for each proposed subsurface disposal system.
- B.** The plans and specifications submitted to the Health Officer for his/her review and approval must also comply with the following requirements:
1. All property lines shall be adequately staked so as to allow the Health Officer to be able to determine the proper placement of the subsurface disposal system.
 2. The primary road, abutting to the proposed site, shall conform to all existing Town requirements for building permit applications.
- C.** The plans and specifications submitted to the Health Officer for his/her review and approval must also display the following information:
1. The location and 100 foot protective radius of all existing wells located within 100 feet of the proposed subsurface disposal system.
 2. The location and 100 foot protective radius of all proposed wells.
 3. All wetlands within 100 feet of the proposed subsurface disposal system.
 4. A benchmark that is within 100 feet of the proposed subsurface disposal system.
 5. 2-foot contours, 100 feet in all directions from the subsurface disposal system, including detail beyond the property lines.
 6. The ground elevation at the test pit location shall be noted on the test pit log.
- D.** If, following the review by the Health Officer, the Health Officer finds that the construction to be undertaken:
1. Conforms to the requirements of this regulation, the Health Officer shall, in writing, approve the plans and specifications.

2. Does not conform to the requirements of this regulation, the Health Officer shall, in writing, reject the plans and specifications for correction and resubmission.
- E. After the Health Officer has issued written approval of the plans and specifications, no changes or additions may be made to said plans or specifications without a resubmission to the Health Officer and subsequent written approval of the proposed changes.
- F. At the time of resubmission of the plans and specifications to the Health Officer, the applicant shall pay to the Town a resubmission permit fee of \$25.00 for each proposed subsurface disposal system.

1301.6 SUBSURFACE DISPOSAL SYSTEMS DESIGN CRITERIA

A. All residential subsurface disposal systems shall comply with the definition of bedrooms as defined above.

B. Setback distances

1. Property Lines:
 - a. Subsurface disposal systems shall not be located closer than twenty (20) feet to a property line.
 - b. For properties located along NH Route 125, no subsurface disposal systems shall be located closer than one hundred (100) feet from the center line of NH Route 125.
 - c. For properties located in an approved innovative zoning development, no subsurface disposal systems shall be located closer than fifteen (15) feet to the side or back property lines and twenty (20) from the front property line.
2. No subsurface disposal system shall be located less than one hundred (100) feet from any proposed or existing water supply, well, stream, pond, marsh, swamp, wet meadow, wetlands or other body of water.
3. For properties located within the Shoreland Protection District:
 - a. No subsurface disposal system shall be constructed on or moved to a site within 150 feet from the shoreline of the Great Ponds, the Little River or the Pow Wow River, or their major tributaries.

- b. No subsurface disposal system shall be constructed on or moved to a site within 100 feet from the shoreline of perennial brooks and streams located within the Shoreland Protection District.
4. No subsurface disposal system shall be installed on filled wetland.
5. There will be no filling of wetlands allowed to provide the minimum distance of subsurface disposal system to wetlands.

C. Bed Bottom

1. For properties located within the Aquifer Protection District:
 - a. Effluent Disposal Area
 1. The bottom of the EFD must be at least six (6) feet above the seasonal high water table and must include at least 24 inches of natural permeable soil. For an EFD approved as part of an ITA, the vertical separation distance must be at least four (4) feet six (6) inches above the seasonal high water table and must include at least 24 inches of natural permeable soil.
 2. The bottom of the EFD is required to be at least eight (8) feet above the bedrock and must include at least four (4) feet of natural permeable soil. For an EFD approved as part of an ITA, the vertical separation distance must be at least six (6) feet six (6) inches above the bedrock and must include at least four (4) feet of natural permeable soil.
 3. The bottom of the EFD is required to be at least eight (8) feet above any impermeable subsoil and must include at least three (3) feet of natural permeable soil. For an EFD approved as part of an ITA, the vertical separation distance must be at least six (6) feet six (6) inches above any impermeable subsoil and must include at least three (3) feet of natural permeable soil.
 - b. Receiving Layer
 1. The extent of the receiving layer with respect to paragraph "a" above shall be under and one hundred (100) feet laterally from the proposed system.

D. Septic Tanks

1. In the case of a subsurface disposal system for a duplex structure, each unit shall be serviced by its own septic tank. All other components may be shared.

E. Pump Systems

1. Alarms
 - a. All pump system alarms shall be hard-wired on a separate circuit from the pump.
 - b. If the pump system alarms shall service a subsurface disposal system designed for multiple units, an exterior warning light shall be mounted in an obvious common area.

F. Test Pits

1. All test pits dug for the purpose of obtaining data to construct a subsurface disposal system shall be witnessed by the Health Officer or his/her designated agent.

G. Inspections

1. All subsurface disposal systems shall be inspected and approved by the Health Officer per the following schedule:
 - a. Bed bottom inspection (shall be accomplished within 2 business days after receipt of notification that area has been excavated).
 - b. Prior to the system being backfilled (shall be accomplished within 2 business days after receipt of notification from the builder that such system is ready for inspection).
 - c. After the system has been backfilled and the area graded as required by the plans (shall be accomplished within 2 business days after receipt of notification that such system has been graded).

1301.7 SUPPLEMENTAL SUBSURFACE DISPOSAL SYSTEM REGULATIONS

A. Alterations, additions to existing structures:

1. Whenever a structure has been altered which would require a new subsurface disposal system design as defined per RSA 485-A:38;

- a. If the existing subsurface disposal system has not been approved by the State, then the new subsurface disposal system shall be installed before occupancy shall be granted.
- b. If the operational condition of the existing subsurface disposal system is unknown or marginal, then the new subsurface disposal system shall be installed before occupancy shall be granted.

B. Conversion of structure to full time use:

1. Prior to obtaining an occupancy permit on a structure converted from seasonal use to year-round use, the subsurface disposal system approved for this conversion shall be installed.

1301.8 WAIVERS

- A.** The rules contained in this regulation are intended to apply to a variety of conditions and uses. It is recognized that strict compliance with all rules prescribed herein may cause hardship or not fit every conceivable situation. The purpose of this section shall be to accommodate those situations.
- B.** Any application filed pursuant to these rules may include one or more requests for a waiver of specific rules outlined in the regulation as set forth in this section:
1. All requests for waivers shall be submitted to the Health Officer.
 2. Each applicant's request for a waiver shall include the following information:
 - a. A specific reference to the section of the rule for which the waiver is being sought;
 - b. A full explanation of why a waiver is necessary and demonstration of hardship caused if the rule is adhered to;
 - c. A full explanation of the alternatives for which a waiver is sought, with backup calculations and data for support; and
 - d. A full explanation of how the grant of the waiver is consistent with the intent of this regulation.
 3. The Health Officer shall approve a request for waiver upon finding that:

- a. The alternatives proposed are at least equivalent to the specific requirements contained in the rule; or
 - b. If the alternatives proposed are not equivalent to the requirements contained in the rule, they are adequate to ensure that the intent of this regulation is met.
4. Waivers shall be granted in writing as part of the approval, shall expire with the approval and shall be transferable with the approval.
 5. A formal waiver request form shall be completed by the applicant which contains all of the above requirements. The owner shall co-sign and acknowledge agreement and consent to all waiver requests.
 6. The Health Officer shall deny a request for waiver upon finding that:
 - a. The alternatives proposed are not equivalent to the specific requirements contained in the rule; or
 - b. The alternatives proposed are not adequate to ensure that the intent of this regulation is met.
 7. Waivers shall be denied in writing as part of the denial of the application.

1301.9 ENFORCEMENT; VIOLATIONS AND PENALTIES

- A. Any person who violates any provision of this regulation shall be subject to a fine of \$100.00 per day for each day the violation is found to exist.
- B. Each day that a violation continues or exists shall constitute a separate offense. Each section of this chapter that is violated shall also constitute a separate offense.

1301.10 SEVERABILITY

- A. Should any section or provision of this regulation be declared by a Court of appropriate jurisdiction to be invalid, such decision shall not invalidate any other section or provisions of this regulation.

Article 1301 of the rules and regulations of the Kingston Board of Health (Subsurface Disposal Systems Rules and Regulations) shall take effect after its approval, adoption, and publication in accordance with, and pursuant to the authority granted by RSA 147:1.