

Chapter 185. Board of Health Regulations

Article ?????. Sewage Disposal Transition and Sewer Connection Rules

§ 185-???. Authority.

A.

The Town of Orleans Board of Health, in accordance with, and under the authority of, Chapter 83, Section 11 and Chapter 111, Section 31 of the Massachusetts General Laws, does hereby adopt the following rules and regulations for the purpose of ensuring the protection of wetland resources and the public water supply.

B.

The effective date of this regulation shall be ?????.

§ 185-???. Preamble.

At the 2019 Annual Town Meeting the town voted to approve the sewerage of the "Downtown" portion of Orleans. The sewerage area runs between Exit 12 and the Eastham Rotary and it encompasses all of Route 6A between Exit 12 and the Eastham Rotary, Old Colony Way, portions of West Road, Main Street, Cove Road, Canal Road, Academy Place, and Route 28. A map of this sewerage area is attached to this Regulation.

As the town transitions to sewers the Board of Health anticipates receiving requests for relief to state and local regulations pertaining to septic systems. These proposals will include requests to delay the repair of failed septic systems, requests for changes in use, increase in flow, variances to the Orleans Board of Health Nutrient Management and Subsurface Sewage Disposal Regulations, and Title 5.

Understanding that the Board of Health has jurisdiction over the design, installation and use of all subsurface sewage disposal systems, and the requirement to connect to sewers, and the Board of Water and Sewer Commissioners has jurisdiction over the allocation of sewer flow, the Board of Health determined that rational and systematic criteria must be developed in order to make the appropriate decisions for the town. These decisions must be made with the consideration of the standards established by the two boards.

§ 185-???. Purpose.

Due to the cost of constructing subsurface sewage disposal systems and enhanced nutrient treatment technologies and in the spirit of promoting the timely connection to municipal sewers, the Board of Health has developed the following transition rules.

§ 185-???. Definitions.

For purposes of this regulation, the following definitions shall apply:

ACRE

A unit of land measure equal to 40,000 square feet which is considered a building acre in accordance with standard real estate practices.

APPROVED CAPACITY

The capacity of a 1978 code system reflected by the sewage flow as shown on the Disposal Works Construction Permit Application or as shown on the Certificate of Compliance, whichever is less for that system and not the calculated capacity based on 1978 code loading rates which may account for over design or safety factors. For a system designed in accordance with 310 CMR 15.000, the approved calculated capacity is based on the loading rates found at 310 CMR 15.242.

DESIGN FLOW

The quantity of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203.

EMERGENCY REPAIR PLAN

A proposed emergency repair of a septic system to address an acute failure. An emergency repair plan would include non-traditional short term repairs to offer a short term solution designed to protect the Public Health, Safety and the Environment.

ENHANCED TREATMENT SYSTEMS

A septic system that is designed to increase removal of nitrogen from effluent as compared to that removed by a standard Title 5 septic 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 of Environmental Protection (DEP) otherwise determines such real property is in single ownership or control pursuant to 310 CMR 15.011 (aggregation).

LOT

An area or parcel of land in undivided ownership with definite boundaries, used or available for use as the site of one (1) or more buildings.

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 existing structure through addition, renovation or modification or a change in use. New construction shall not include replacement or repair of an existing building totally or partially destroyed or demolished if there is no increase in flow.

NON-CONFORMING SYSTEM

Any system which is not in full compliance with the standards and requirements of 310 CMR 15.000 and for which a variance or local upgrade approval has not been obtained.

ON-SITE SUBSURFACE SEWAGE DISPOSAL SYSTEM

A system or series of systems for the treatment and disposal of sanitary sewage below the ground as defined by 310 CMR 15.000 of the State Environmental Code, Title 5.

WASTEWATER

Sanitary sewage consisting of either greywater or blackwater or a combination of greywater and blackwater from domestic, commercial and other non-industrial sources. Wastewater does not include stabilized waste.

WATERSHED

For the purposes of this regulation a watershed is defined as the area of land under which the groundwater collects and flows towards or into a specific pond and/or estuary.

§ 185-???. Applicability.

The transition regulations apply to properties contained within the Sewer Service Area which are eligible for connection into the Municipal Wastewater System, Phase I, upon its availability:

1. Sewage Disposal Works Construction Permit Applications for New Construction, renovations, additions or change of use of a facility that increases the design flow to the septic system.
2. Repairs to sewage disposal systems with no proposed increase in sewage flow.
3. Properties subject to the Nutrient Management Regulations
4. Building Permit Applications for new construction, renovations, additions or change in use that increases the sewage design flow.

Section 185-??? Jurisdiction

The following fall under the jurisdiction of the Board of Health

- Ordering the connection to the municipal sewer system.
- Granting relief to the repair of septic systems
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- Granting relief to the Nutrient Management Regulations
- Granting relief to the installation of new septic systems for the increase in sewage flow.

The following fall under the jurisdiction of the Board of Sewer and Water Commissioners

- Determination of the allocation of sewerage flow for each parcel.

Section 185 - ??? Transitional Relief To The Repair Of Septic Systems Located In The Municipal Wastewater System, Phase I.

Transitional Relief to the repair of septic systems located in the Municipal Wastewater System, Phase I, may be granted when in the opinion of the Board of Health the person requesting the relief demonstrates that public health, safety and the environment can be protected by taking preemptive measures to monitor and maintain the failed system. In making its determination

the Board of Health will take into account structural integrity, depth to groundwater, separation to wells, wetlands, and drainage systems discharging into wetlands. Each system will be reviewed on a case by case basis and based on the severity of the impact on public health, safety and the environment the owner may have to:

A. Failed Systems

1. For systems that have been ordered to be repaired due to hydraulic failure, the presence of cesspools, or for systems failing to protect public health, safety, or the environment extensions to repair for up to two years can be granted by the Board of Health. Each system will be reviewed on a case by case basis to determine its effect on public health, safety and the environment. Based on the Board's determination that the system can be maintained in a sanitary manner, the Board may grant an extension to the date of compliance subject to conditions which may include:
 - a. Repair the system in full compliance with Title 5 and the Orleans Board of Health Subsurface Sewage Disposal Regulations.
 - b. Make a minor repair to correct the failure.
 - c. The system owner must contract with a Professional Civil or Sanitary Engineer, Registered Sanitarian, or a DEP system inspector who shall inspect the system on a frequency prescribed by the Board of Health. Such inspection shall include an evaluation of the structural integrity of the septic system and/or an evaluation of the liquid level in the soil absorption system and corresponding recommendations for pumping.
 - d. The system owner shall hire a Professional Civil or Sanitary Engineer or Registered Sanitarian to design a high effluent alarm for the failing septic system. Such alarm shall be designed to sound when the liquid level reaches a height that has 48 hours capacity in the system. The owner will be responsible for pumping the septic system whenever the alarm sounds.
 - e. The owner of the property must hire a Professional Engineer or Registered Sanitarian who will design an emergency repair plan for the short term repair of the septic system, receive the necessary variances and apply for a Disposal Works Construction Permit.
 - f. The owner of the property must hire a Professional Engineer to design a plan for the connection of the facility to the municipal sewer system. Such design must meet the specifications described in the Orleans Board of Water and Sewer Commissioners Sewer Use Rules and Regulations.
 - g. The owner of the property must install the sewer line to the property line making it available for immediate connection upon receiving notification to connect from the town.
 - h. Sufficient funds, as determined by the town, for the connection to the municipal sewer must be placed in an escrow account. The Board of Health must receive documentation that the escrow account is dedicated solely to the replacement of failed systems, or for the connection to a town sewer and must not be a general escrow account.
 - i. If the septic system becomes structurally unsound, causes sewage to be discharged to the ground surface or back-up into the facility that it serves, the process for a repair of the system must begin immediately.

- j. The owner of the property must agree to connect to the municipal sewer within 90 days upon notification from the town that the sewer is available for connection.

Section 185-??? Facilities For Which New Construction, Change In Use, Or Increase In Flow Are Proposed.

A. Facilities Seeking Relief from the Orleans Subsurface Sewage Disposal Regulations and Nutrient Management Regulations

Transitional relief to the construction of a new septic system or increase in the sewage design flow to an existing septic system located on property located in the Municipal Wastewater System, Phase I, may be granted when in the opinion of the Board of Health the person requesting the relief demonstrates that public health, safety and the environment can be protected. In making its determination the Board of Health will take into account the size of the property, the proposed design flow, depth to groundwater, separation to wells, wetlands, and drainage systems discharging into wetlands.

Properties located in the Municipal Wastewater System, Phase I may be approved through these Transition Rules without strict adherence to the provisions of the Orleans Subsurface Sewage Disposal Regulations and the Orleans Nutrient Management Regulations. Each proposal will be reviewed on a case by case basis and based on the severity of the impact on public health, safety and the environment the Board may grant approval subject to conditions which may include:

- 1) All proposals for an increase in sewage flow without being in full compliance with the Nutrient Management Regulations must:
 - a) Receive written approval from the Board of Water and Sewer Commissioners documenting that there is adequate allocated flow available for the property that the proponent is seeking the increase in flow.
 - ⌘ Upon receiving approval from the Board of Water and Sewer Commissioners a proponent may petition the Board of Health for relief from the Orleans Sewage Disposal Regulations and Orleans Nutrient Management Regulations;
~~(1) No property shall receive an increase in sewage flow at a ratio of greater than 660 gpd/40,000sf of land.~~
~~(2) No property shall exceed the allocated flow established by the Board of Water and Sewer Commissioners.~~
~~(3) No proposal to increase the sewage flow greater than 33% above the existing established flow shall be approved.~~
 - b) A site and sewage plan, showing either the existing conditions or proposed system must be submitted to the Board of Health. Such plan must show at a minimum:
 - i) Every plan for a system shall be of suitable scale (one inch = 40 feet or fewer for plot plans and one inch = 20 feet or fewer for details of system components) and shall include depiction of:

- ii) The legal boundaries of the facility to be served;
 - iii) The location of all dwelling(s) and building(s) existing and proposed on the facility and identification of those to be served by the system;
 - iv) The location of existing or proposed impervious areas, including driveways and parking areas;
 - v) Location and dimensions of the system (including reserve area);
 - vi) System design calculations, including design daily sewage flow, septic tank capacity (required and provided); soil absorption system capacity (required and provided);
 - vii) Location of every water supply, public and private,
 - viii) Location of water lines and other subsurface utilities on the facility;
 - ix) A complete profile of the system;
- c) A nitrogen loading report depicting the nitrogen concentration both existing and proposed.
- d) The owner of the property must hire a Professional Civil or Sanitary Engineer to design a plan for the connection of the facility to the municipal sewer system. Such design must meet the specifications described in the Orleans Board of Water and Sewer Commissioners Sewer Use Rules and Regulations.
- e) A nitrogen loading report depicting the nitrogen concentration both existing and proposed.
- f) Sufficient funds, as determined by the town, for the connection to the municipal sewer must be placed in an escrow account. The Board of Health must receive documentation that the escrow account is dedicated solely to the replacement of failed systems, or for the connection to a town sewer and must not be a general escrow account.
- g) The owner of the property must agree to connect to the municipal sewer within 90 days upon notification from the town that the sewer is available for connection.

Section 185-??? Circumstances Where No Relief Can Be Granted:

- 1) No system serving new construction, change in use, or increase in flow in a Title 5 Nitrogen Sensitive area shall be designed to receive or shall receive more than 440 gallons of design flow per day per acre of land area except as set forth in 310 CMR 15.216 (aggregate flows) or 15.217 (enhanced Nitrogen removal).
- 2) No system serving new construction, change in use, or increase in flow where the use of both on-site systems and drinking water supply wells is proposed to serve the facility shall be designed to receive or shall receive more than 440 gallons of design flow per day per acre of land area except as set forth in 310 CMR 15.216 (aggregate flows) or 15.217 (enhanced Nitrogen removal).

- 3) No system can be increased beyond its approved capacity, as defined by this regulation, without receiving a variance from Title 5.
- 4) ~~No increase in flow above what is allowed under Title 5.~~

Section 185-???Circumstances Where No Relief Is Required

- 1) Facilities with new septic systems constructed in compliance with Title 5, Orleans Subsurface Sewage Disposal Regulations and the Orleans Nutrient Management Regulations may increase the sewage flow in accordance with the provisions of the above stated regulations

Section 185-??? Process for Seeking Transitional Relief

- 1) Transitional Relief may be granted by the Board of Health for properties located in the Municipal Wastewater System, Phase I for required or voluntary upgrade of failed or nonconforming systems, new construction/change in use/increase in flow with design flows below 10,000 gpd. Such relief may be granted through these Transitional Regulations without obtaining variances from the Orleans Subsurface Sewage Disposal Regulations and/or Orleans Nutrient Management Regulations.
- 2) Every request for a variance shall be in writing and shall make reference to the specific provision of the Orleans Board of Health Regulations for Subsurface Sewage Disposal and/or the Orleans Board of Health Nutrient Management Regulations for which a relief is sought.
- 3) Notification:
 - a) No application for Transitional Relief shall be complete until the applicant has notified all direct abutters and abutters across the street by certified mail at his/her own expense at least ten days before the Board of Health meeting at which the request will be on the agenda. The notification shall reference the specific provisions of 310 CMR 15.000 and/or the Orleans Board of Health Regulations for Subsurface Sewage Disposal from which transitional relief is sought.
 - b) It shall be the responsibility of the applicant to notify the property owner (if different than the applicant) of the request for a Transitional Approval.
- 4) Applications
 - a) All applications for relief must be submitted in writing on a form provided by the Orleans Board of Health.

Section 185-??? Review Criteria

- 1) Transitional relief to the provisions of the Orleans Board of Health Regulations for Subsurface Sewage Disposal and/or the Orleans Board of Health Nutrient Management Regulations shall be granted only when in the opinion of the Orleans Board of Health:
 - a) The person requesting the relief has established that a level of environmental protection which is at least equivalent to that provided under 310 CMR 15.000, Orleans Board of Health Subsurface Sewage Regulations, and the Orleans Nutrient Management Regulations can be maintained without strict application of the provisions from which the variance is being sought. In making this determination the Board of Health will take into account structural integrity, depth to groundwater, separation to wells, wetlands, and drainage systems discharging into wetlands.
 - b) The person requesting the transitional relief must meet the conditions set forth in Section 185 - ??? Transitional Relief To The Repair Of Septic Systems Located In The Municipal Wastewater System, Phase I or 185-??? Facilities For Which New Construction, Change In Use, Or Increase In Flow Are Proposed.
 - ~~c) The person requesting the relief has established that the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health shall not conflict with the intent of these regulations.~~
 - d) For new construction, change in use, or increase in sewage flow the proponent must demonstrate how the project will be beneficial to the community.
 - e) Transitional Relief shall not be granted for:
 - i) Upgrade proposals which include the addition of new design flows to a cesspool or privy.
 - ii) The addition of new design flows above the existing approved capacity of a system constructed in accordance with the provisions of 310 CMR 15.000 or the 1978 Code.
 - iii) New construction, change in use, or increase in flow in a Title 5 Nitrogen Sensitive Area (DEP Zone II's), or a property served by a septic system and private potable water well beyond a design flow of 440 gpd/ acre or ratio thereof shall be allowed.

185 – ??? Sewer Connection Regulation

1. The owners of all houses, buildings or properties used for human occupancy, employment or recreation or structures which in any way generate wastewater flows, situated within the Town of Orleans and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer line of the Town of Orleans, shall be required to connect to the same by building a sewer as defined in the Town of Orleans Sewer Regulations. Such connection, unless otherwise specified, shall be within one

year of the date of the official mailed notice of sewer service availability, by the Town of Orleans Board of Health or its authorized agent.

2. All properties as to which such notice has been mailed and to which ownership is transferred, shall be required to connect to the sewer line within 30 days of transfer.
3. The Board of Health shall have the authority to defer deadline in this regulation, if in the opinion of said Board, the provisions of this regulation impose an exceptional burden on a property owner. All requests for deferment must be submitted in writing.
4. Unless the condition of the approval was granted otherwise, any property owner who has installed an (Innovative/Alternative) septic system less than 10 years prior to an order to connect may, upon approval by the Board of Health (Board of Water and Sewer Commissioners), defer connection to town sewer to allow them to utilize their alternative septic system for a total of ten years from the date of issuance of the Certificate of Compliance for said system. If the property is transferred during that time the property shall be connected to the town sewer at the time of transfer.
5. All costs and expenses associated with the installation and connection to the public sewer shall be the sole responsibility of the property owner, and shall be governed by the Town of Orleans Sewer Use Regulations.
6. Property owners shall immediately, following connection to the public sewer, abandon any septic tanks, cesspools, and similar private wastewater disposal facilities serving said property. Any abandonment must be conducted in a manner approved by the Board of Health and requires a Disposal Works Permit.

Section 185 - ??? Severability

1. If any portion, sentence or clause is held invalid, the remainder of this regulation shall remain in full force and effect.

Section 185 - ??? Violations and Penalties

1. Any person who violates these regulations shall be subject to a fine of \$200.00 for each violation. Each day a violation continues shall be deemed a separate offense.
2. In addition to fines, any person who violates this regulation and/or refuses to connect to the municipal sewer in the specified time is hereby notified that renewal of your licenses/permits issued by the Board of Health will be withheld until such time that all fines are paid and compliance with the order to connect has been satisfied.

The Orleans Board of Health, and such other individuals as may be designated by the Board of Health may enforce this Regulation.