

SECTION VI - LOCAL SEPTIC REGULATIONS TO SUPPLEMENT TITLE 5, STATE ENVIRONMENTAL CODE

Article 1 - General Provisions

(1) **Authority.** In accordance with Massachusetts General Laws, Chapter 111, Sections 31 and 127A, the Truro Board of Health hereby adopts the following regulations to supplement the provisions of 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 (hereinafter, "Title 5"). These regulations shall take effect upon passage.

(2) **Purpose.** The purpose of this article is to provide a greater degree of protection to environmental and public health, to protect groundwater from contamination, prevent the spread of disease, and provide greater clarification of the definitions used by the Board in applying the provisions of Title 5 and the Truro Board of Health Regulations pertaining to on-site sewage treatment and disposal systems.

(3) **Enforcement.** Enforcement of the provisions contained in this Section VI will be carried out in accordance with the provisions of Title 5 of the State Environmental Code set forth at 310 C.M.R. 15.000, et seq. and all enforcement methods outlined in Section I of these Board of Health Regulations.

(4) **Definitions.** Notwithstanding the general provisions of Section 15.002 of Chapter 310 of the Code of Massachusetts Regulations, the Definitions section of Title 5, terms used by the Board in applying the provisions of Title 5 and the Truro Board of Health Regulations pertaining to on-site sewage treatment and disposal systems, shall be defined as follows:

Bedroom shall be defined as follows for the purpose of sizing a subsurface sewage disposal system (proposed and existing):

(a) Any room that meets the definition of a bedroom under Title 5 or any room or enclosed addition with at least 70 square feet of floor area and a window, other than a kitchen, dining room, living room, bathroom, hallway space.

(b) Notwithstanding the foregoing, any dwelling with six (6) rooms shall be construed to have at least three (3) bedrooms. Any dwelling with seven (7) rooms shall be construed to have at least four (4) bedrooms. Any dwelling with eight (8) or nine (9) rooms shall be construed to have at least five (5) bedrooms. Any dwelling with ten (10) or eleven (11) rooms shall be construed to have at least six (6) bedrooms. Each additional room beyond eleven (11) shall be construed as an additional bedroom and the number of bedrooms for the purpose of sizing a subsurface sewage disposal system (proposed and existing) shall be adjusted accordingly.

(c) All lofts, finished basements, and rooms with cased openings shall be considered rooms for the purposes of this definition.

Buildable Upland shall mean the area of contiguous upland on a lot exclusive of Wetland as defined herein.

Failed System shall mean any Septic System which fails to protect the public health, safety and environment as determined by the Truro Board of Health, including but not limited to:

- a. any system which must be pumped in excess of two (2) times in a twelve month period;
- b. any system which includes a component that the Board of Health determines is structurally unsound;
- c. any system which discharges effluent directly or indirectly to the surface of the ground through ponding, surface breakout or damp soils above the disposal area or to a Wetland; or
- d. any system which meets any of the failure criteria itemized on the Title 5 Official Inspection Form, as described in 310 C.M.R. 15.303.

To the extent such a waiver would be consistent with the provisions of Title 5, the Board of Health may waive a finding that any of the foregoing systems have failed if the Board determines, at its sole discretion, that the system will continue to protect the public health, safety and environment.

Innovative/Alternative (I/A) Technology shall mean technology that is certified for enhanced nutrient removal that is described in 310 C.M.R. 15.202 and 15.217, and which is approved by the Massachusetts Department of Environmental Protection pursuant to 310 C.M.R. 15.280 through 15.289.

Remedial Use shall mean use of I/A systems for the upgrade of a Failed or Nonconforming Septic System and there is to be no increase in the design flow served by the proposed I/A system.

Nonconforming Septic System shall mean any system which, when installed, did not comply with provisions of either the 1978 or 1995 iterations of Title 5, including cesspools and all similar systems in use prior to the adoption of the 1978 Code.

Title 5 shall mean Title 5 of the State Environmental Code: 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 Septic System shall mean any system installed in compliance with the 1978 or 1995 iterations of Title 5, but shall not mean cesspools or any similar system in use prior to the adoption of the 1978 Code.

Wetlands shall mean any area that contains swamp, bog, dry bog, fresh or salt marsh, areas of exposed groundwater, embayments, rivers, ponds, lakes, streams, inland banks, coastal banks, and coastal dunes.

Article 2 - Variances

(1) In addition to the variance criteria set forth in Section I of the Board of Health Regulations, an applicant may apply and the Board of Health may grant a variance from this Section VI provided the following minimum criteria for said variance are also met:

- a.** A satisfactory inspection by a licensed system inspector of all system components if the variance sought pertains to an existing system and if the Board so requires.
- b.** The proposed or existing leaching facility has a minimum of five (5) feet of clearance between the bottom of the leaching facility and the highest groundwater level as estimated by the Board of Health; and
- c.** The proposed or existing leaching facility meets the minimum Title 5 requirements regarding setback distances for Soil Absorption Systems (SAS) as set forth in 310 C.M.R. 15.211; and
- d.** The existing system (if any) is not allowing surface breakout of the waste water; and
- e.** The existing system (if any) is not requiring pump-outs in excess of two (2) times in a twelve (12) month period; and
- f.** The Board of Health determines that the grant of the variance will not pose a risk to the public health, safety or the environment and, further, meets all the variance requirements contained in Section I of the Truro Board of Health Regulations.

(2) Any grant of variance pursuant to this Article VI must be recorded at the Barnstable County Registry of Deeds.

(3) All applications for variance must be accompanied by plans prepared by a qualified Professional Engineer or Registered Sanitarian and include all information required under 310 C.M.R. 15.220.

Article 3 - Upgrading Septic Systems

(1) Required Upgrades.

In order to improve the quality of water for the Town of Truro by elimination of old septic systems which do not comply with Title 5 and the more protective regulations adopted by the Truro Board of Health, persons who own property with Nonconforming Septic Systems shall bring those systems into compliance in accordance with the following schedule:

- a. Prior to the sale or transfer of ownership of the property, including transfers by inheritance; or
- b. Prior to any change of use; or
- c. Prior to the subdivision or partitioning of a parcel on which a Nonconforming Septic System is located;

Also, if any of the following conditions exist, the system will require immediate upgrade:

- d. If the system must be pumped in excess of 2 times in a 12 month period; or
- e. If there is a discharge of effluent directly or indirectly to the surface of the ground through ponding, surface breakout or damp soils above the disposal area or to a Wetland; or
- f. If the system is determined to be failing to protect the public health, safety or the environment as defined in 310 C.M.R. 15.303; or
- g. If components of the system or cesspool are determined to be otherwise structurally unsound by the Board of Health.

(2) Multiple Systems on One Lot.

In the event of the failure of one Septic System on a lot that has more than one Nonconforming Septic System, the failing system shall be immediately upgraded and the remaining Nonconforming Septic Systems shall be inspected by a Department of Environmental Protection System Inspector pursuant to Section 15.340 of Title 5 (hereinafter, "DEP System Inspector"). If any of the remaining Nonconforming Septic Systems shall fail inspection as defined in the Title 5 Official Inspection Form, or if the inspection shall reveal that the system is a "Failed System" as defined in Section (3) set forth above, the Nonconforming Septic System shall be immediately upgraded to a fully conforming Title 5 Septic System.

(3) Further Instances Where Inspections Are Required.

- A. Every applicant for the following applications shall also file with the Truro Health Agent an Inspection Report completed by a DEP System Inspector:
 - 1. application for a building permit that authorizes an increase in living space as said "increase in living space" is determined by the Truro Health Agent; if an applicant or a direct abutter is aggrieved by the determination of "increase of living space" by the Health Agent, the applicant may

appeal said determination to the Truro Board of Health for further determination; and

2. application for a special permit that allows uses not otherwise permitted by the Truro Zoning Bylaw; and
 3. application for a new license or transfer of an existing license permitting the operation of a motel, cottage colony, cabin, campgrounds, lodging house or restaurant.
- B.** All Nonconforming Septic Systems, including cesspools, located within one hundred and fifty (150') feet of any Wetland shall, on or before January 1, 2007, file with the Truro Health Agent an Inspection Report completed by a DEP System Inspector and shall continue to be inspected every two (2) years thereafter.
- C.** If any of the foregoing systems shall fail inspection as defined in the Title 5 Official Inspection Form, or if the inspection shall reveal that the system is a "Failed System" as defined in Section (3) set forth above, the system shall be immediately upgraded to a fully conforming Title 5 Septic System.

Article 4- Subdivision Plans

All new subdivision plans shall have the proposed well location and septic system on each lot. These locations shall meet all sideline and other setback and distance requirements. The Plan shall be on file with the Building Commissioner and Health Agent. Applications for septic and well permits shall adhere to the plan, unless sufficient data is presented to the Board of Health to justify the change.

Article 5 - Bedroom Count

(1) Bedroom Count Determination. Notwithstanding the general provisions of Section 15.002 of Chapter 310 of the Code of Massachusetts Regulations, there shall be no presumption that single family dwellings have at least three bedrooms in the Town of Truro. In each instance, a specific determination relative to bedroom count must be made without reliance upon any presumptions. The Health Agent shall have the authority to make the initial bedroom count determination. If the Health Agent feels the determination in a specific instance should be made by the Board of Health, the Agent may, in his or her sole discretion, refer the matter to the Board of Health for a final determination. The Agent may also, in his or her sole discretion, refer the bedroom count determination to the Board of Health upon request of the applicant.

(2) Deed Restriction. Notwithstanding the provisions of 310 C.M.R. 15.002, an applicant must design and install systems using design flows for the exact number of

bedrooms that are defined in this Section V unless the Truro Board of Health makes the specific determination, after public hearing, that a system using design flows for a smaller number of bedrooms than defined in this Section V will not negatively impact the public health, safety, welfare or the environment. In this case the Board of Health requires an appurtenant deed restriction, running with the land and in favor of the Board, limiting the property to the smaller number of bedrooms.

(3) Building Permits. No building permit, foundation permit, plumbing permit, special permit or variance shall be issued until a Disposal Works Construction Permit has been issued for installation of a subsurface sewage disposal system designed to accommodate the bedroom count or the Board of Health has issued a written determination that the existing system is adequate for what is proposed.

(4) Floor Plans and Inspections. In order to determine compliance with any provision of the foregoing regulation, a floor plan must be filed with the Truro Board of Health for the Health Agent to make a determination as to bedroom count. If the Health Agent deems it necessary, he or she may refer the determination of the bedroom count to the Board of Health for a vote. If the Board of Health, by a majority vote of its members, deems that an inspection of an existing residence would be helpful to confirm the bedroom count, the Health Agent, with the applicant's permission, shall inspect the premises and report back to the Board his or her findings.

Article 6 - Regulation of Separate Site Systems

- (1)** Septic systems must be constructed on the same lot as the facility to be served.
- (2)** Variances from this Article 6 of Section VI may be granted by the Truro Board of Health for structures in existence prior to March 31, 1995, provided all of the following conditions are met:
 - a. The system can be installed on a contiguous property owned by the same person and title to the lots is merged by virtue of a deed recorded at the Barnstable County Registry of Deeds;
 - b. The system is not being installed for the purpose of increasing the size or use of the existing structure; and
 - c. The system will replace or repair a pre-existing Nonconforming Septic System and/or its components.
- (3)** Any grant of variance pursuant to this Article 6 of Section VI must also be made in accordance with Article 2 of this Section VI and Section I of the Truro Board of Health Regulations.

Article 7 - Innovative/Alternative Technology

(1) Definitions. For the purpose of this Article 7, the following terms shall have the following meanings:

Innovative/Alternative (I/A) Technology shall mean technology that is certified for enhanced nutrient removal that is described in 310 C.M.R. 15.202 and 15.217, and which is approved by the Massachusetts Department of Environmental Protection pursuant to 310 C.M.R. 15.280 through 15.289.

Remedial Use shall mean use of I/A systems for the upgrade of a Failed or Nonconforming Septic System and there is to be no increase in the design flow served by the proposed I/A system.

(2) Standards. Innovative/alternative (hereinafter, "I/A") technologies, as defined herein, and all systems where the soil absorption system is designed for pressure distribution of effluent (hereinafter, "pressure-dosed systems") will only be permitted in Remedial Use situations, as defined herein. I/A technology and pressure dosing systems will not be permitted in any other situations.

(3) Applications and Hearings. Any application for a system proposing the use of I/A technology shall be submitted to the Truro Board of Health which shall hold a public hearing to consider its approval. All applications shall include a copy of the Massachusetts Department of Environmental Protection approval letter appropriate to the I/A technology being used and the level of approval (i.e., General Use, Provisional Use, Remedial Use, Piloting Use, or site specific Pilot Approval). All applications for Pilot Approval shall include all performance data from all piloting sites where the I/A technology has been similarly configured and utilized. Notice of the public hearing of the Board of Health for the consideration of applications for I/A approval shall be in accordance with the provisions of the Open Meeting Laws in Massachusetts. A butter notification will not be required unless mandated by Title 5.

(4) Monitoring and Reporting.

(a) If an I/A or pressure dosed system is approved for a Remedial Use situation, the applicant will be required to submit for approval to the Board of Health a proposed monitoring and reporting plan to evaluate the performance of the system, which plan shall include a description of any long-term operational or maintenance requirements needed to keep the alternative system operational, and any educational, financial assurance or other mechanism proposed to ensure effective long-term operation and maintenance.

(b) Owners and operators of all I/A and pressure-dosed systems shall report the results of all operation, maintenance, and monitoring activities required by the foregoing provision or by the Department of Environmental Protection to the Truro Board of Health and to the Barnstable County Department of Health and Environment.

Such reporting must be performed in the manner specified by the Board of Health in imposing the monitoring requirement or in the form approved by the Barnstable County Department of Health and Environment and must occur within 15 days after each maintenance or monitoring event.

(c) The Board of Health hereby further requires that when a system operator performs a system inspection and finds that a sewage treatment technology has malfunctioning components which have compromised the system’s ability to treat sewage as designed, the operator shall report on the system’s status and any planned corrective action, including a proposed deadline for said corrective action, to the Truro Board of Health and the Barnstable County Department of Health and Environment within 48 hours of inspection.

(d) If at any time a monitoring or maintenance report indicates that an I/A system or system using pressure dosing is in need of corrective action, the Truro Board of Health may hold a hearing to inquire as to whether corrective action is needed. If at such hearing, the Truro Board of Health determines that such system is in need of corrective action, it may take enforcement action, including but not limited to, an order to cease operation of said system or any other action otherwise necessary to protect public health, safety, welfare and the environment.

(5) Record Notice at Barnstable Registry of Deeds. All applicants gaining Board of Health approval for the installation of any I/A systems shall be required to record at the Barnstable County Registry of Deeds a Notice that the property is served by an I/A system together with an explanation of the Inspection, Monitoring and Reporting requirements, including the requirement of a service contract for the life of the system. No Certificate of Compliance for the installation of an I/A system will be issued until such time as proof of said recording in accordance with Article 10 herein is filed with the Board of Health.

Article 8 - Required Setbacks for System Components

Notwithstanding the provisions of Title 5, 310 C.M.R. 2.11, all systems shall conform to the following minimum setback distances for septic tanks and soil absorption systems (SAS), including reserve areas, as measured in feet and set forth below:

	Septic Tank	SAS
Surface Water (excepting Wetlands)	50	100
Private Well	75	150
Wetlands	100	150

Article 9 - Existing Systems Serving New Construction

In accordance with the policy established by the Massachusetts Department of Environmental Protection, for systems designed and approved prior to March 31, 1995, the Truro Board of Health shall determine the “approved capacity” of a system, as that

term is used in 310 C.M.R. 15.352 and elsewhere in Title 5, by reviewing only the Design Flow figure shown on the face of the Disposal Works Construction Permit issued at the time of original approval of said system. The Design Flow for said systems shall not be determined by reviewing the size of the system actually installed on the property, or by looking at the plans that were approved as part of the original permit. Rather, the only proper determination of “approved capacity” shall be made by reading the Design Flow figure shown on the face of the approved permit.

If the original permit cannot be located, or if it is determined by the Board of Health that there is an error in the Design Flow figure shown on the original permit, the “approved capacity” of said system may be determined by a review of the existing use of the facility (i.e., existing bedroom count; existing restaurant seats; existing retail space, etc.), as determined by the Truro Health Agent. If the applicant is aggrieved by said determination of the Health Agent, the determination may be appealed to the Board of Health for further review and determination.

Article 10 - Buildable Upland Calculations for Nitrogen Loading Limitations

When applying the nitrogen loading limitations set forth in Title 5 and this Section VI of the Truro Board of Health Regulations (see Article 11), only Buildable Uplands shall be included in the lot area calculations.

Article 11 - Deed Restrictions

Any deed restrictions required under this Section V or under Title 5 shall be submitted to the Health Agent for review before they are finalized and executed. Each deed restriction shall adequately describe the property and all restrictions placed thereon (i.e., bedroom count limitations shall include the number and location of approved bedrooms; monitoring agreements shall describe the specific monitoring and maintenance requirements, etc.). All deed restrictions shall contain a provision permitting the Truro Health Agent to inspect the premises to ensure compliance with the provisions of the deed restriction at reasonable intervals and upon reasonable prior notice. All such deed restrictions shall be recorded at the Barnstable County Registry of Deeds and proof of recording, including a copy of the deed for the property reflecting a marginal reference to the restriction, shall be submitted to the Board of Health prior to the issuance of the Certificate of Compliance for the system.

Article 12 - Nitrogen Loading Limitations

With the exception of the portion of the Beach Point District lying between Knowles Crossing and the Provincetown town line, the Truro Board of Health hereby requires that all properties within the Town of Truro contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) per bedroom and that all systems designed to serve said facilities meet the same restrictions and requirements contained in Title 5 as the “Nitrogen Sensitive Areas” defined in 310

C.M.R. 15.215 irrespective of whether the properties are located within “Nitrogen Sensitive Areas” as so defined.

Article 13 - Septage Haulers License

- 1. Application.** The Board of Health will issue Septage Haulers Licenses only upon written application that includes the following information:
 - a. Name and address of applicant and business name under which applicant will operate;
 - b. A written description of all equipment utilized in the business, including the capacity of any tanks;
 - c. An emergency contact name and number of a person available for contact 24 hours a day in cases of emergency.

- 2. Inspection.** Prior to the issuance of the License and annually thereafter, all equipment of the business must be inspected by the Health Agent. All equipment must be clearly marked and identified with markings indicating the capacity of the tank. Truck tanks must be cleaned and made free of sand and sludge for every inspection. Gauges must be cleaned and calibrated so that exact volume is easily determined. Grease must be unloaded into the grease pit and separated from the septage.

- 3. Septage Coupons.** Septage coupons must be completely and properly filled out. The name, date, location and volume for each system serviced must be provided. The signature of the hauler and the customer must be executed on each coupon in order to validate the origin of the waste in the Town of Truro.

- 4. Chemicals and Acids.** Use of chemicals and acids for cleaning cesspools and septic systems is prohibited.

- 5. Failing Systems.** As a condition of their License, all Licensees shall accurately report all malfunctioning systems to the Board of Health, including but not limited to, the address of the malfunctioning system, the nature of the problem and the repairs, if any, effectuated. Septage haulers are required to supply accurate information to the Board of Health as a condition of their License.

- 6. Licenses.** Licenses go into effect January 1st of each year. The annual fee for Licenses shall be determined by the Board of Health each year.

- 7. Violations.** Failure to comply with any of these regulations shall constitute a violation which may result in a show cause hearing before the Board of Health to determine whether the License should be revoked. Violations may also result

in the imposition of fines and/or any necessary legal action to be undertaken by the Board.

Article 14 - Miscellaneous Provisions

1. As-Built Cards. The measured location of all components of each septic system shall be recorded on a septic “As Built” card and filed with the Health Agent prior to the issuance of a Certificate of Compliance. The installer shall verify on said “As Built” card that the components are installed in accordance with the locations shown on the approved septic plan.

2. Severability. If any Article, section, paragraph, sentence, clause or phrase of these regulations should be declared invalid for any reason, such declaration shall not affect the remainder of these regulations which shall remain in full force and effect.