



TOWN OF UPTON

Board of Health – Rules and Regulations

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These regulations shall be effective on and after October 9, 1997, and so remain until modified or amended by the Board of Health. They are enacted by the Upton Board of Health under authority which includes but is not limited to one or more of the following; Mass. General Laws, Sections 31, 122, 122A, 127, 143, 155, 187, 188, 310 CMR 11.00 – 17.00. Board of Health Regulations are an exercise of the police power under which the various levels of government are responsible for protection of the public health, safety and welfare.

The Board of Health has created these regulations which exceed the minimum requirements in order to better protect the towns public health, wetland areas, to assure the proper installation of private septic systems, and to assure safe drinking water is provided upon the installation of a new well.

SECTION ONE - TITLE 5 SUPPLEMENT

I. TESTING

- A. Deephole testing and Percolation testing for new homes shall be taken from September 1, to May 31. The testing season will close during the months of June, July, and August.
- B. Deephole and Percolation testing for repair of an existing septic system may be completed at any time of the year.
- C. There will be a fee for each lot tested. A fee will also be imposed on all testing not cancelled within 48 hours of the scheduled testing date.
- D. New septic systems shall not be sited in areas with percolation rates slower than 30 minutes per inch. Soils with percolation rates between 30 - 60 minutes per inch may only be used for upgrade/repair of existing septic systems where no other suitable area for sewage disposal is available and where approval has been granted in accordance with these local rules and regulations.
- E. The following arrangements must be made before any percolation and Deephole testing can be completed:
 - 1. Application for testing must be submitted to the Board of Health office and all fees must be paid in advance.
 - 2. Arrangements must be made for a licensed soil evaluator, licensed engineer, Board of Health agent, and backhoe to be on scene.
 - 3. Lots must be marked or staked out clearly.
 - 4. Lots must be taped off from boundaries and from wetlands.
- F. The Board reserves the right to require additional testing if in its opinion this should be necessary
- G. All test holes must be filled in before leaving the testing site.

II. DESIGN PLANS

Definition of Bedroom: Portion of a dwelling as so defined to furnish minimum isolation necessary for the use of a sleeping area, which includes but is not limited to a bedroom, den, study, sewing room, sleeping loft, dining room or enclosed porch, but does not include kitchen, bath, hall or unfinished cellar or attic. A bedroom must provide a minimum of 70 square feet of floor space with a head room of 7' or more, at least one window and one electrical outlet. For new construction or remolding, in order for a room not to be considered a bedroom there must be a minimum 6' opening into

any other room other than a bathroom. Dwellings built prior to the 1978 building code will have their bedrooms determined on a case by case basis.

- A. All septic designs submitted for review must reference the lot number/letter that the soil testing was performed under. This is for Board of Health purposes only.
- B. Plans must show an area locus of the lot.
- C. All wetlands must be shown on the design plan. If no wetlands are present within 100' of the septic system, the design must state so.
- D. A permanent benchmark must be shown for all lots.
- E. Private wells must be shown on all designs. Any changes to the location of the well must be shown on the as-built plan. If town water is available for hook-up, the design must state so.
- F. As-built plans must be submitted before any final house inspection or Certification of Compliance is issued.

III. CONSTRUCTION

- A. All septic systems must have a **minimum** set back of 100 feet from wetlands so classified by the Upton Conservation Commission.
- B. All new septic tanks shall be 2 compartment tanks.
- C. Levelers for distribution boxes are **only** allowed at the discretion of a Board of Health agent.
- D. Vents shall be required for all new construction systems with the exception of alternative systems that may prohibit this requirement.
- E. Vents shall be a minimum of 30 feet from all dwellings and 10 feet from property lines unless a variance is granted.
- F. All vents shall be fitted with charcoal filters.
- G. Magnetic tape must be installed on leach lines for future location purpose.
- H. No septic permit can be issued for any lot requiring a private well before the well is drilled, and water test results and well completion logs are submitted to the BOH for approval
- I. Effective 12/21/21, On-site subsurface sewage disposal systems for all Housing for the Elderly, shall be designed using a minimum flow of 110 gpd per bedroom (note definition of bedroom). No reduction will be allowed as per the current Title 5 regulation, 310 CMR 15.203 (2)

IV. INSPECTION

- A. All septic systems and perimeter or curtain drains must have the following inspections during construction:
 1. Bottom of leaching area, bed, trench, pit and/or curtain drain if one is required.
 2. After stone and pipe are installed. Water must be made available.
 3. Rough and or final grade.
- B. Sufficient and reasonable time (48 hours) must be given when requesting an inspection. The Board of Health Clerk must be contacted for the Agents availability and to arrange for an inspection.
- C. When requesting an inspection, the correct lot or house number must be given and must be clearly marked and seen from the entrance to the property for the Agent or Board Member.

V. INSTALLERS LICENSE:

- A. Applicant must have a minimum of one year working experience working as or under a permitted installer from any town in Massachusetts.
- B. Any applicant applying for a license to construct, alter, repair or install a septic system on or after 1/1/2018 within the Town of Upton must first satisfy testing requirements established by the Upton Board of Health.

VI. TITLE 5 INSPECTORS PROHIBITED FROM REPAIRING A SYSTEM THEY INSPECTED

- A. In the interest of the homeowner, the Upton Board of Health requires all repairs to a septic system compelled by a failed Title 5 inspection, be completed by a licensed installer who has had no participation in the Title 5 inspection for said property.

A request for a variance to this regulation may be petitioned in writing by the homeowner. Request may be made for the following reasons:

- 1) Repairs require immediate action; delay would create a health issue.
- 2) System requires only a minor adjustment at no cost to the homeowner.
- 3) Other – valid hardship - must be clarified.

Penalties: Violators of this regulation may be fined up to \$300.00 for each violation per day.

SECTION TWO - WELLS

- A. Well permits must be obtained from the Board of Health office before the installation of any new well and all regulations under the **Town of Upton, Private Well Regulations** must be adhered to. A full version of these regulations may be obtained from the BOH clerk.

B. No individual well of any type intended for use as a potable water supply shall be installed where a municipal supply of water is accessible abutting the property and where permission to connect to such a supply can be obtained from the authority having jurisdiction over it.

SECTION THREE - ANIMALS

A. All owners of animals and poultry (excluding cats and dogs), must hold a permit issued by the Board of Health stating the type and number of animals at their residence . A minimal fee will be imposed to cover the cost of an annual inspection, required by the Department of Agriculture. Such licensing is in accordance with Commonwealth of Mass. General Law # 111, Section 155. All regulations under the **Town of Upton Regulations Governing Animals** must be adhered to. A full version of these regulations may be obtained from the BOH clerk.

SECTION FOUR – TOBACCO

A. All retailers selling tobacco products must first obtain a tobacco permit from the Board of Health, and all regulations must be adhered to under the Board of Health's **Regulations for Sale of Tobacco Products** . A full version of these regulations may be obtained from the BOH clerk.

B. All smoking on the sand and green areas of the town beach, also known as Kiwanis Beach, is prohibited. Smoking will be allowed in the parking lot area as well as the sport fields located separate from the beach area. First time offenders will be issued a verbal warning. Second offense will result in a fine of \$100.00

SECTION FIVE – FLOURIDATION

A. No fluoridation shall be added to the municipal water system without the prior approval of the Board of Health and the majority vote of the community of Upton at a town meeting.

SECTION SIX – SOLID WASTE

A. The town of Upton prohibits any solid waste material originating outside the boundaries of the Town of Upton and/or collected outside the boundaries of the town of Upton, to be staged, stored or processed within the Town of Upton, unless prior written approval is given by the Board of Health. Any person failing to comply with this order shall upon conviction be fined \$1,000.00 per violation. Each day's failure to comply with this order shall constitute a separate violation.

SECTION SEVEN - FILL

In accordance with the authority under Mass. General Laws, c. 11, Sec. 31, the Upton Board of Health hereby promulgates the following regulation.

The purpose of this regulation is to protect the public health, welfare and the environment by ensuring that all fill brought on a project site does not result in the release or dispersal of contaminants that may present unacceptable risks to public health and welfare.

Fill as used in this regulation shall mean clean, uncontaminated, non-indigenous soil placed beneath, above, and/or around the project site. Fill shall contain no trash, refuse, rubbish, or debris, including but not limited to wood waste, lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, sawdust, machinery or machinery parts.

- A. The Board of Health reserves the right to inspect any fill used in connection with a project requiring a local permit from the Building Department, Board of Health or Planning Board. The Board of Health may require one or more of the following:
 1. Fill to be of the same soil composition as original soil on site
 2. Fill not to exceed the levels of toxicity of the existing soil on site or be greater than the recommended limits of soil standards set by the Department of Environmental Protection, whichever is less.
 3. Certified lab testing of fill material. Testing must be received by the Board of Health at a minimum of 48 hours prior to fill being released on site.
- B. When applicable, all fill must comply with the proposed drainage calculations submitted under the site plan review for the Conservation Commission, Board of Health or Planning Board.
- C. Any person who violates this regulation shall be punishable by a fine of \$1,000.00. Each day's failure to comply shall constitute a separate violation.

SECTION EIGHT – BODY ART

- A. All Body Art establishments and its practitioners must first obtain a Body Art Establishment and Body Art Practitioner permit from the Board of Health, and all regulations must be adhered to under the Board of Health's **Body Art Regulations**. A full version of these regulations may be obtained from the BOH clerk.

SECTION NINE - FEES/VARIANCE

- A. All fees are subject to change.
- B. All requests for a variance from these Rules and Regulations must be made to the Board in writing.