



TOWN OF MONTEREY

MASSACHUSETTS 01245

WATER RESOURCE PROTECTION REGULATIONS

I. PURPOSE AND AUTHORITY.

A. PURPOSE.

It is the purpose of these regulations to protect the public health, safety and welfare by ensuring that ground and surface water resources, including public and private drinking water supplies located within the Town of Monterey, are protected from contamination by soil absorption systems, including any on-site disposal system or on-site subsurface sewage disposal system as defined by 310 CMR 15.00 Title 5 of the State Environmental Code.

B. AUTHORITY.

These regulations shall be effective on and after August 1, 1997, and so remain until modified or amended by the Board of Health. They are enacted by the Monterey Board of Health under the authority which includes but is not limited to one or more of the following: Massachusetts General Laws, Chapter III, Sections 31, 122, 122A, 127, 143, 155, 187, 188, and Massachusetts Regulations 310 CMR 11.02.

C. STATEMENT OF LOCAL CONDITIONS.

All properties within the Town of Monterey are served by on-site disposal systems and soil absorption systems for the disposal of sewage or sanitary sewage. These properties are also served by groundwater sources for drinking water, the majority of which are served by on-site privately drilled wells. Moreover, the Town's recreational water bodies, Lake Garfield and Lake Buel, are heavily populated with seasonal homes. The majority of these homes have septic systems that predate Title 5 and must be considered substandard at best. In addition, based on personal observation and as documented in the Soil Survey of Berkshire County, much of the soils within these heavily developed areas and adjacent watersheds are classified as well-drained to excessively well-drained soils. Clearly these factors demonstrate a serious risk for contamination and/or severe degradation of ground and surface waters from untreated or poorly treated sewage effluent, such as pathogenic organisms, nitrogen and phosphates. In conjunction with the adoption of these regulations, the Board of Health will initiate a comprehensive septic management and water resource protection plan, which will include the further identification and delineation of areas with high and low risk to septic system contamination. As more specific information becomes available, the Board of Health may find it necessary to amend these regulations.

II. DEFINITIONS.

A. Alternative Systems: Systems, as described in 310 CMR 15.280 through 15.282 State Environmental Code Title 5 and when properly designed, constructed, operated and maintained, provide enhanced protection of the public health, safety and welfare and of the environment.

B. On-site Systems: Any disposal system or on-site subsurface sewage disposal system for the treatment and disposal of sanitary sewage below the surface of the ground and as defined in 310 CMR 15.002 State Environmental Code Title 5.

C. Public Water Supply Well: Any public or private source of groundwater used for human consumption as defined in the State Drinking Water Regulations 310 CMR 22.00 and approved by the State Department of Environmental Protection.

D. Upgrade: The repair or replacement of an on-site system or the design and construction of a new on-site system which is intended to bring a nonconforming system into compliance with 310 CMR 15.00 to the maximum feasible extent.

III. PROXIMITY TO PUBLIC WATER SUPPLY WELLS.

Any new construction of an on-site system or any existing on-site system located within four hundred (400) feet of a public water supply well and in need of replacement or upgrade must use one of the approved alternative systems for design and construction purposes.

IV. PROXIMITY TO SURFACE/RECREATIONAL WATER BODIES.

Any existing on-site system in need of upgrade or any proposed new construction of an on-site system within four hundred (400) feet of Lake Garfield or Lake Buel must use one of the approved alternative systems for design and construction purposes, as defined in 310 CMR 15.002 Title 5 of the State Environmental Code.

V. ADMINISTRATION AND ENFORCEMENT.

A. General Enforcement:

State Environmental Code 310 CMR 11.00 shall govern the enforcement of these regulations.

B. Separate Violations:

Each day's failure to comply with any provision of these regulations shall constitute a separate violation.

C. Severability:

If any paragraph, section, clause, provision, phrase or word of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these regulations shall be deemed to remain valid and effective.

D. Amendments:

These regulations or any portions thereof may be amended, supplemented or repealed from time to time by the Board of Health, with notice as provided by law, on its own motion or by petition.

E. Invalidation by State Law:

Any part of these regulations subsequently invalidated by a new state law or modified by an existing state law shall automatically be brought into conformity with the new or amended law and shall be

deemed to be effective immediately, without recourse to public hearing and the customary procedures for amendment or repeal of such regulation.

F. Agent:

An agent of the Board of Health is any person authorized in writing by the Board to act under these regulations. No agent may vary the application of any provision of these regulations without approval of the Board. Whenever reference is made in these regulations to "Board of Health" or "Board," it shall mean the Board of Health of the Town or its authorized agent.

G. Variance:

1. The Board of Health may vary the application of any provision of these regulations with respect to any particular case when, in the Board's opinion, both of the following conditions are fulfilled:
 - a. The enforcement thereof would do manifest injustice.
 - b. The applicant has proven that the same degree of environmental protection and protection of the public health, safety and welfare can be achieved without strict application of the particular provision. The alternative means of protection shall be detailed and documented to the satisfaction of the Board.
2. Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefor.
3. Any variance granted by the Board shall be in writing. Any denial of the variance shall also be in writing and shall contain a brief statement of the reason for denial. A copy of each variance shall be conspicuously posted for thirty (30) days following its issuance and shall be available to the public at all reasonable hours. No work shall be done under any variance until thirty (30) days elapse from its issuance, unless the Board certifies in writing that an emergency exists.
4. Any variance may be subject to such qualification, revocation, suspension, condition or expiration as is provided in these regulations or as the Board expresses in its grant of the variance. A variance may otherwise be revoked, modified or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard, in conformity with the requirements of Title I of the State Environmental Code 310 CMR 11.00 for orders and hearings.

H. Forms:

Appended to these regulations are one or more sample forms for the administration of the regulations. The administrative content of these forms may be revised by the Board from time to time by administrative action of the Board.

I. Fines:

Whosoever violates any of these rules and regulations shall upon conviction be fined not less than \$100 and not more than \$500 except when otherwise provided by law.