

CITY OF TAUNTON
BOARD OF HEALTH

LOCAL CESSPOOL UPGRADE REGULATION

Authority:

The Taunton Board of Health, pursuant to its rule making authority under M.G.L. Ch. 111 Section 31, M.G.L. Ch. 111 Section 127, and M.G.L. Ch. 21A Section 13, hereby adopts the following local regulation relative to the upgrade of cesspools and privies within the jurisdiction of the City of Taunton, and to meet the minimum standards for subsurface waste water disposal systems prescribed in the most recent amended regulations of the Massachusetts State Environmental Codes, Title V, 310 CMR 15.000.

Purpose:

The purpose of this regulation is to protect the public health, welfare, and environment from the contamination from cesspools (and privies) which have been scientifically demonstrated to fail in protecting surface and ground water resources.

Cesspools, which includes privies, are single component pits which do not allow for the proper detention of solids or for the proper distribution of effluents. Effluents in cesspools overload the capacity of the soil to remove harmful bacteria and viruses, to adequately remove phosphorus, and to properly convert ammonia to less harmful forms of nitrogen. Cesspools are further prone to surface breakout or backup through the plumbing. Cesspools are a contributor to eutrophication of lakes, ponds, rivers, and streams. Cesspools tend to accumulate sludge which blocks the natural biomatic filtration and adversely affects aerobic digestion, requiring more maintenance than the conventional three (3) component septic systems. Historically, cesspools predate State regulations and the exact number can only be approximated. Consequently, the record of enforcement, maintenance, and care over time is poor and therefore poses a potential danger to public health and the environment. The Board of Health has taken this evaluation and compared these facts to the present standards of the Massachusetts Environmental Code, Title V, 310 CMR 15.000 relative to those sections dealing with cesspools and have compared these standards to conditions prevalent in the outlying areas of Taunton that are not serviced by municipal sewers or water systems. The Taunton Board of Health has determined that there is a need to phase out all existing cesspools within the City limits by requiring that all cesspools be upgraded to meet the minimum standards under the Massachusetts Environmental Code, Title V or to the maximum feasible extent possible, outlined in the State's Title V regulations 310 CMR 15.000. During the Board's deliberations, the Board noted that all unsewered areas in the City of Taunton

are located at the perimeter or outer boundaries of the municipality. These areas are also dependent upon onsite domestic wells, many being old, shallow dug wells, which are highly susceptible to subsurface and surface contamination.

The Board of Health also noted that the geology and soil characteristics for the City of Taunton are predominately glacial outwash (80%), Lucustrine clay deposits associated with ancient glacial lakes and waterways (10%), and glacial upland soil called tills (10%). The Taunton Conservation Wetland Maps indicate that approximately thirty-five percent (35%) of the surface area of Taunton is wetlands, flood plains, and open bodies of water. The City of Taunton is bounded and traversed by the Taunton River Valley, the second largest river system in the Commonwealth. Taunton lies in the coastal plain of southeast Massachusetts and particularly in the Taunton River Valley. Taunton topography is relatively flat lowlands over shallow bedrock, which results in a high ground water table. Taunton's location results in many tributary rivers having their confluences go to the Taunton River within its boundaries, (the Mill River/Snake River, Three Mile River, Cotley River, and Segregansett River being the largest). There are many other smaller brooks and streams, lakes, and ponds scattered across the community with numerous vegetated wetlands and flood plains associated. Taunton has an extensive water resource character.

In addition, the Taunton Board of Health recognizes the importance of two major Zone III Water/Aquifer Protection Districts. The Canoe River/Sabbatia Lake Water and Aquifer Protection District which was designated an "Area of Critical Environmental Concern" (A.C.E.C.) by the Commonwealth. This A.C.E.C. is associated with three Zone I Water and Aquifer Protection Districts at Paul Dever State School, Norton municipal drinking water well fields, and the North Raynham Water District (Hocomock Area of Critical Environmental Concern) well fields. The second Zone III Water and Aquifer Protection District is located in East Taunton under the Taunton Airport and Massasoit State Park. These districts, the Canoe River/Sabbatia Lake (Area of Critical Environmental Concern) and East Taunton District have a combined potential for producing six million gallons of water per day based on studies conducted by the engineering firm of Dames and Moore for the City of Taunton Water Department.

Finally, the Board is further mindful that the Segregansett River is a secondary source of water supply for the Town of Somerset, Massachusetts and that the Town of Dighton has a municipal well field adjacent to the Segregansett River just south of the Taunton/Dighton town line which hydrologically draws from this river valley. The Taunton Board of Health, being cognizant of the threat that cesspools and privies can pose to onsite domestic wells, and to safeguard the drinking water resources associated with the Water and Aquifer Protection Districts both now and in the future, and mindful of their

responsibility to assist the towns of Norton, Raynham, Dighton, and Somerset in protecting their water resources (which either emanates or are associated with groundwater and aquifer resources lying in the City of Taunton), unanimously recommends the promulgation of the following local regulation for phasing out cesspools, which includes privies, through upgrades at the time of real estate transfer.

DEFINITIONS:

As used in this regulation the following terms shall have the meaning set forth in this section unless otherwise clearly required by the context. Terms expressed in the singular shall be construed to incorporate the plural, and vice versa, unless the context otherwise requires.

1995 Code - Title V of the Massachusetts Environmental Code, 310 CMR 15.000 as most recently revised and in effect as of January of 1997.

Local Approving Authority - The Taunton Board of Health, the local approving authority as defined in 310 CMR 15.002.

Cesspool - A pit with open-jointed linings or holes in the bottom and/or sidewalls into which raw sewage is discharged, the liquid portion of the sewage being disposed of by seeping or leaching into the surrounding soils, and the solids or sludge being retained in the pit. Cesspools are non-conforming systems under 310 CMR 15.000.

Dwelling - A building which is used, intended, or designed for human habitation, including but not limited to house, hotel, apartments, mobile and modular homes and condominiums.

Facility - Any structure or building that does not serve for human habitation but is connected and serviced by a subsurface waste disposal system.

Failed Subsurface Sewage Disposal System or Failed System - A system which fails to protect public health and safety or the environment as set forth at 310 CMR 15.303. Cesspools are considered failed systems at the time of real estate transfer in the City of Taunton.

Local Upgrade Approval - An approval granted by the local approving authority allowing the owner or operator of a non-conforming system to perform an upgrade of the system to the maximum feasible extent possible, all in accordance with the provisions of 310 CMR 15.401 through 15.405.

Non-conforming System - Any system which is not in full compliance with this local regulation or with the standards and requirements of 310 CMR 15.000 and for which a variance or local upgrade approval has not been obtained. Non-conforming systems include but are not limited to, cesspools, privies, and failed systems as defined by this regulation.

Operator - A person who alone or together with other persons has charge or control of any cesspool.

Owner - A person who, alone or together with other persons has legal title to any dwelling served by a cesspool or control of the property and dwelling, including but not limited to any agent, executor, administrator, trustee lessee, or guardian of the estate for the holder of legal title.

Person - Any individual, partnership, corporation, firm, association, authority, trust or group, including, but not limited to a city, town, country, the commonwealth and its agencies, and the federal government.

Privy - A structure used for the disposal of human wastes without water transport consisting of a shelter built over an unlimited pit or vault in the ground into which human waste is deposited. A privy is a non-conforming system and not allowed in the City of Taunton.

Property Transfers - Shall refer to and include the following: inheritance by will or intestacy; legal life estate; an interest for life in trust; interfamily transfer where new parties are involved; foreclosure; deeds in lieu of foreclosure; tax taking either by federal, state, or municipal government; levy of execution that results in a conveyance of property; bankruptcy; any conveyance of land or form of ownership where new parties are introduced.

Upgrade - The modification of one or more components of an on-site system or the design and construction of a new on-site system which is intended to bring a non-conforming system into conformance with 310 CMR 15.000 to the maximum feasible extent. An emergency repair is not an upgrade.

CITY OF TAUNTON
BOARD OF HEALTH

LOCAL REGULATION ON CESSPOOLS AND PRIVIES

- Section One: No person, owner or operator, shall construct a cesspool or privy to service a dwelling or facility within the City of Taunton.
- Section Two: No person, owner or operator, shall repair, upgrade or replace a failed cesspool or privy with another cesspool or privy servicing a dwelling or facility within the City of Taunton.
- Section Three: All existing cesspools and privies in the City of Taunton, not found to be failing in accordance with the standards of the Massachusetts Environmental Code, Title V, 310 CMR 15.303 as adopted March 31, 1995 and most recently amended, are considered non-conforming systems in Taunton and shall be upgraded to meet the standards set forth in the new Title V regulations at the time of real estate transfer.
- Section Four: All cesspools and privies within the City of Taunton are deemed non-conforming subsurface waste water disposal systems, and when found to be properly functioning shall be temporarily grandfathered until the time of real estate transfer. At that time of real estate transfer the cesspool shall be deemed to be failed and shall require to be upgraded with the approval of the local approving authority which is the Taunton Board of Health in accordance with Title V, 310 CMR 15.422. The buyer shall be notified by the seller or his agent, of the requirements contained in 310 CMR 15.300 through 15.305 for inspection and upgrade.
- Section Five: Cesspool upgrades which cannot meet the standards of the Massachusetts Environmental Code, Title V, shall be upgraded with the approval of the local approving authority (The Taunton Board of Health) to the maximum feasible extent as required under Title V, 310 CMR 15.401 through 310 CMR 15.422.
- Section Six: Cesspools and Privies which cannot be upgraded to the standards outlined in section four and section five of this regulation, may apply for innovative and alternative technology approved under the standards and provisions for such technology contained in the Massachusetts Environmental Code, Title V, 310 CMR 15.000.

Section Seven: All cesspools and privies after upgrade shall be abandoned in accordance with Title V, 310 CMR 15.354

Section Eight: These regulations are not intended to substitute for the design standards as set out in the Massachusetts Environmental Codes, Title V, 310 CMR 15.000 but are intended to phase out cesspools and privies as non-conforming sub-surface waste water disposal systems at the time of real estate transfer as defined in Title V, 310 CMR 15.301

Section Nine: Any person with a non-conforming cesspool or privy that has failed at any time is required to upgrade, and if requiring a variance, shall follow the variance procedures as defined in Title V, 310 CMR 15.410 through 310 CMR 15.422.

Section Ten: This local Board of Health Regulation shall be in affect at the date of adoption, January 6, 1997.

BOARD OF HEALTH
APPROVED
DR. JOSEPH F. NATES
CHAIRMAN
TAUNTON, MA

Russell A. Heap, R.S.
Executive Director