

# **Administrative Rule of the Jefferson County Board of Health**

## **Policy and Procedure on the Permitting of Lots That May Have Obtained Prior Health Department Approval**

### **Authority**

This rule is adopted by the Jefferson County Board of Health under the authority vested in it by §16-2-11 (b)(3) of the West Virginia State Code. Specifically, the Code gives local boards of health the authority to “adopt and promulgate and from time to time amend rules, consistent with state public laws and the rules of the West Virginia State Department of Health and Human Resources, that are necessary and proper for the protection of the general health of the service area and the prevention of the introduction, propagation and spread of disease.”

### **Policy**

The Jefferson County Health Department shall endeavor to honor approvals and permits previously issued by the JCHD for onsite sewage disposal systems whenever there is sufficient documentation in the files to support issuance of a new onsite sewage disposal (septic system) permit for a specific site on a lot and the protection of public health will not be compromised.

All systems and system locations must meet the minimum standards for systems of that type as defined in West Virginia law and applicable regulations. Systems and system locations that meet the minimum standards for systems of the given type will be approved.

### **Procedure**

The Jefferson County Health Department will follow the following procedure for processing applications for septic system construction permits on previously approved lots:

- A. **Records Review** - When a permit application is received for construction of an onsite sewage disposal system (septic system) on an existing lot or lots, the Applicant shall provide the health department with documentation of any prior septic approval, if available. If the Applicant does not possess documentation of a prior septic approval, the health department will search the JCHD’s files, planning and zoning records and any other reliable sources of records for evidence of prior approvals for a septic system on the lot or lots in question. These records may include:
  - ◆ A subdivision plat stamped and signed approved by the health department;
  - ◆ A letter from the health department indicating approval of a proposed subdivision plat;
  - ◆ Previously issued permits for construction of septic systems on the lot or lots in question;
  - ◆ A “Need Fee” letter from the health department indicating the suitability of the lot or lots in question for construction of a septic system; and,

- ◆ Other records that clearly indicate the prior approval of a system by the Health Department.

If an initial search for records is unsuccessful, the Applicant shall provide the JCHD with the names of the current and prior property owners since 1972, so that a more extensive document search may be conducted.

**1. When There Are Records** - If a record or records of prior approvals for a septic system on the lot or lots in question are found, records will be evaluated to determine if the records provide sufficient documentation for the health department to determine:

- ◆ The approximate location of the previously approved septic reserve area with reasonable certainty – The approximate location of the previously approved septic reserve area may be extrapolated from representations contained in subdivision plats, permit records and other relevant documents, as well as from the locations of extant observation pits and perc holes.
- ◆ The percolation rate of the soil in the area of the previously approved septic reserve area – If the available documents do not contain a record of the perc rate, it will be assumed that the perc rate exceeds 30 minutes per inch, requiring 400 square feet of drainfield per bedroom. In the alternative, a new perc test may be performed at the Applicant's expense.
- ◆ The proposed depth of trenches in the previously approved septic reserve area – If no record exists of the approved installation depth, it will be assumed that the installation depth shall be 24 inches unless evidence exists showing that the prior approval required a different depth. If no record exists of the approved installation depth and property owner desires a deeper installation than 24 inches, the property owner must secure a new perc test evidencing that a deeper installation is appropriate up to a maximum depth of 36 inches.
- ◆ The treatment and/or disposal technologies to be employed – If the treatment and/or disposal technology is not specified in the available records, the sanitarians shall assume that it was approved as a Class I system.
- ◆ The suitability of the soils for installation of a drainfield – The sanitarians may rely upon the work of prior sanitarians as to the suitability of the soils for installation of a drainfield; however, standing water in an extant observation pit and/or perc holes, or on the surface of the ground in the septic reserve area, may constitute changed conditions which would require a reevaluation of the septic approval for the site. Such reevaluation may include digging observation holes with an auger or backhoe to verify that the soils meet state regulations for installation of a septic system.

If, during the review of the prior septic approval, changed or latent conditions which lead the sanitarian to believe that the minimum standards required at the time of the previous approval could not have been met, the sanitarian will work cooperatively with the Applicant and other interested parties in an effort to achieve an adequate resolution.

2. **When There Are No Records** - If no records of prior approvals for a septic system on the lot or lots in question are found, the application will be treated in the same way that an application for a permit would be treated if no previous approvals have been given. The lot or lots in question will be evaluated under current rules and regulations to ascertain if there is a suitable site with suitable soils where a septic system can be legally installed except that, for subdivision lots, the size of the septic reserve area will be governed by the chart in Appendix A according to the date the most recent subdivision plat was recorded.

B. **Site Visit to Lot** – No septic system construction permit or permit renewal will be issued on any lot without a contemporaneous site evaluation by the sanitarian to confirm that, by all appearances, the site conforms with both the West Virginia Sewage Collection and Treatment Design Standards (64 CSR 47) and the Sewage Rules (64 CSR 9). On a previously approved site, the sanitarian will determine by observation that the site conditions have not changed. The types of changes in site conditions for which a sanitarian should be looking include, but are not limited to, obvious and observable:

- ◆ Areas which have been filled,
- ◆ Areas which have been excavated,
- ◆ Areas where stumps or debris have been buried,
- ◆ Areas where underground utilities have been installed,
- ◆ Areas which have been paved,
- ◆ Areas under a driveway or other driving surface,
- ◆ Areas under any type of structure,
- ◆ Areas where the drainage has been altered,
- ◆ Areas where foundation drains or curtain drains have been installed,
- ◆ Areas within 100' of a well or a spring used for drinking water,
- ◆ Areas within 50' of a cistern,
- ◆ Areas within 25' of a public water supply line, and
- ◆ Any other obvious violations of the WV Sewage Collection and Treatment Design Standards.

To facilitate this work, the sanitarian will ask the property owner to mark the location of:

- ◆ any proposed or existing well on the property,
- ◆ the previously approved septic reserve area, and
- ◆ any property lines within 200' of any proposed or existing well and the proposed septic reserve area.

If the Applicant submits information from a soil scientist that the proposed septic reserve area meets the minimum qualifications for approval, the information shall be considered in determining whether to issue a construction permit for a septic system.

**C. Septic System Construction Permit Issuance or Denial** – As much as possible and consistent with good professional practice and this policy, the sanitarian will rely on previous approvals and permits to determine the location and design of a septic system for which a construction permit application has been received. When a permit is issued based on a previous approval or permit, the permit shall include a statement detailing what information was relied upon to determine what the soil conditions are on the site and who performed the site and soil evaluations.

1. If the sanitarian concludes from his or her review of existing records and his or her site evaluation that the proposed septic reserve area meets the site and soil criteria of the West Virginia Sewage Collection and Treatment Design Standards (64 CSR 47), Sewage Rules (64 CSR 9) and local Board of Health rules, the sanitarian shall issue a construction permit for a septic system as described in the original approval documents.
2. If in the process of reviewing an application for an onsite sewage disposal system construction permit, the sanitarian finds that the proposed septic area does not meet the site and soil criteria of the West Virginia Sewage Collection and Treatment Design Standards (64CSR47), Sewage Rules (64 CSR 9) or local Board of Health rules, or if he or she finds an error in the sizing, design, or location of the previously approved onsite sewage disposal system, the sanitarian shall make written findings of such inadequacies found and, where possible, shall issue a permit that complies with the West Virginia Sewage Collection and Treatment Design Standards (64CSR47) and the rules of the local Board of Health. In some cases, this may require the use of Class 2 treatment and/or disposal systems; however, conventional or Class I systems will be permitted in all cases where soil and site conditions meet the minimum requirements for a Class I system, unless the property owner requests another appropriate system based upon the recommendation of the septic contractor or sanitarian.
3. In those rare cases when no permit of any kind can be issued that meets the West Virginia Sewage Collection and Treatment Design Standards (64CSR47) and the rules of the local Board of Health, the onsite sewage disposal system construction permit application shall be denied. In any case when a permit is denied, the sanitarian's decision will be reviewed by the Environmental Health Program Manager and, if possible, by a representative of the WV Office of Environmental Health Services.
4. In the event that a permit is denied, or if the landowner believes that the permit is unreasonably restrictive or unreasonably modified, the landowner may appeal the decision in accord with the Board of Health Appeals policy.