

ARTICLE 36

To see if the Town will vote to amend the general By-laws of the Town of Wareham by inserting at DIVISION VI, ARTICLE II the following:

1.0 Purpose and Intent:

It is the purpose of this bylaw to establish a town-wide nitrogen loading standard for wastewater discharges and disposal in the Town of Wareham to protect the public health and welfare of its citizens, and to minimize quantifiable impacts to drinking, fresh and coastal water quality and natural resources. This bylaw is adopted pursuant the home rule amendments of the Massachusetts Constitution.

2.0 Performance Standards and Applicability

2.1 No town board, officer, or employees thereof shall issue a permit or approval for the installation, repair, or replacement of an onsite wastewater disposal system, or use thereof, that will result in the discharge of a wastewater nitrogen loading rate that exceeds 18 pounds per acre.

3.0 Exemptions

3.1 Areas that are now sewered or are planned to be sewered according to the Town of Wareham's wastewater facilities plan dated December 4, 2001.

3.2 Expansions of structures or dwellings in existence before [*effective date*] that do not require the replacement or enlargement of the septic system.

3.3 Replacement or repair of a failed septic system serving a residential dwelling in existence before [*effective date*], except at property transfer.

3.4 Expansion of an existing septic system for an existing single-family house up to 3 bedrooms on a lot, both in existence before [*effective date*] where a Massachusetts DEP approved nitrogen removal septic system is installed.

3.5 The repair or replacement of existing septic systems installed that cannot meet the standard of Section 2.0 because of lot size and land use that existed on [*effective date*] where a Massachusetts DEP approved nitrogen removal septic system is installed.

3.6 A proposed single-family house up to three bedrooms in size on a lot created before [*effective date*] where a Massachusetts DEP approved nitrogen removal septic system is installed.

4.0 Definitions and calculations methods

4.1 Average Occupancy: For the purposes of nitrogen loading calculations in this bylaw, average occupancy shall be presumed to be 1 person per bedroom.

4.2 Wastewater Nitrogen Loading Rate (pounds per acre): The presumed annual number of pounds of nitrogen emanating from a wastewater system to groundwater using the rates specified in section 4.4 through 4.6, divided by the acreage of land used to meet the performance standards of this bylaw.

4.3 Approved Nitrogen Removal Septic System: Any onsite wastewater disposal system accepted by the Wareham Board of Health for these purposes. Generally these will include those systems certified by the Massachusetts Department Environmental Protection (DEP) for "General Use" or "Provisional Use" that achieve an average discharge of 19 ppm or less total nitrogen. Where deemed appropriate, the Board of Health may also accept for the purposes of these regulations those nitrogen removal wastewater treatment technologies with DEP certification for "Piloting Use," as well as reduced discharging systems such as composting toilets.

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4.4 Per capita nitrogen loading for conventional systems: For the purposes of nitrogen loading calculations in this bylaw, annual per capita discharge of nitrogen is presumed to be 6 pounds per person for conventional Title 5 wastewater disposal systems.

4.5 Per capita nitrogen loading for nitrogen removal systems: For the purposes of nitrogen loading calculations in this bylaw, DEP approved nitrogen removal septic systems shall be presumed to discharge at a rate of 4 pounds per person. Systems claiming performance better than 19 ppm are allowed a credit proportional to their performance. A system that discharges 9.5 ppm shall be presumed to have one-half of 4 pounds of nitrogen per capita loading, and so forth. Any system installed that claims performance lower than the 19 ppm DEP certification level must be tested twice per year, and the results of that testing submitted to the Board of Health as per regulations adopted in support of this bylaw.

4.6 Nitrogen loading for commercial development: For the purposes of the nitrogen loading calculations in this bylaw, nitrogen loading for commercial development shall be calculated using wastewater system design flows, multiplied by a presumed concentration of 30 ppm discharged to groundwater, for a conventional wastewater treatment system, unless a nitrogen removal septic system is installed, in which case nitrogen performance values shall be used.

5.0 Severability

5.1. In case any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

### EXPLANTATION 2.0:

Applicants could achieve this standard through different mechanisms including: limiting activity on the lot, reducing density of development, tying into a municipal sewer, constructing individual nitrogen removing onsite systems, constructing nitrogen removal package treatment plants, protecting land in other parts of Wareham through the placement of permanent conservation easements that include prohibition of nitrogen applications, or a combination of any or all of these techniques.

or to do or act in any manner relative thereto.

Inserted by the Board of Selectmen