



**TOWN OF WESTPORT**  
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OFFICE OF BOARD OF HEALTH  
856 MAIN ROAD

**PORTABLE TOILET  
REGULATION**

(Amended 8/1/2019)

**1.0 AUTHORITY**

The Westport Board of Health adopts the following regulation in accordance with the provisions of M.G.L. c. 111 s. 31, under the authority, which includes, but is not limited to, one or more of the following: M. G. L., c. 111, ss. 15, 122, 122A, 127, 143, 155 and 187, and 310 CMR11.02. Board of Health regulations are an exercise of the power under which various levels of government are responsible for protection of the public, health, safety welfare and the environment.

**2.0 PURPOSE**

The purpose of this regulation is to ensure the maximum protection of public health, ground and surface waters through the efficient permitting and safe placement of Portable Toilets in the Town of Westport. This regulation supersedes the existing "Port-A-Jon" regulation that was amended on 6/18/12.

**3.0 DEFINITIONS**

**Board of Health** - the Board of Health of the Town of Westport.

**Contractor** - the owner of portable toilets or the person that removes and hauls the septage from the toilets.

**FEMA** – Federal Emergency Management Agency.

**M.G.L.** – Massachusetts General Laws.

**NOAA** – National Oceanic and Atmospheric Agency.

**Person(s)** – any individual, partnership, association, firm, company, corporation, department, agency, group, public body (including a city, town, district, county, authority, state, federal, or other governmental unit) or any other entity responsible in any way for an activity subject to this regulation.

**Portable Toilet** – any temporary, portable device, building, structure, etc. that serves the purpose of a bathroom, urinal or toilet for the disposal of human waste.

**Seasonal** – a period of not more than 6 months in a calendar year.

**Semi-Public Facility** – a privately owned or operated location, which is open to the general public or persons authorized by the owner or operator, not including a single-family residence.

**Site** – the property on which the portable toilet is located.

**Site Owner** – the person who owns the site or the owner's authorized agent for the purpose of contracting to obtain a portable toilet.

**Title 5** – 310 Code of Mass Regulations (CMR), 15.000, Title 5 of the State Environmental Code regulating septic systems.

#### **4.0 PERMITTING**

1. No portable toilet shall be located or maintained at a site without a valid permit issued by the Board for its placement at the site within the Town. It is a violation of the regulations to locate or maintain a portable toilet on a site without a permit.
2. No contractor shall locate or maintain a portable toilet on a site without documentation that a valid permit from the Board of Health has been issued for its placement at a specific property in Town.
3. The contractor is responsible for obtaining the site-specific permit at which the portable toilet will be located. A permit may be obtained by filing a complete application and paying the applicable fee at the office of the Board of Health. The application shall include: the name, address and telephone number of at least one owner of the property where portable toilet is to be located, the name, address and telephone number of the contractor providing the toilet, the name, address and telephone number of the contractor servicing the toilet, if not the providing contractor, the length of time the toilet is to be located on the site and such other information as the Board may require.
4. For portable toilets to be placed on site for more than five (5) days in any month (as allowed under section 5.1(a-d), the contractor shall include a maintenance contract with the permit application.
5. The Board may set additional permit conditions for the location and use of any portable toilet in addition to the specific conditions prescribed herein, including, without limitation, the best location for the unit on the site.

#### **5.0 OPERATION**

- 5.1. A portable toilet shall not be used on a site in the Town for a period of more than five (5) days in any one month, except for the locations set out below. At no time may a portable toilet be left unattended for more than five (5) business days.
  - a. Public facilities, temporary or permanent, owned or operated by municipal, state or federal entities for the benefit of workers or the public, where siting a Title 5 compliant system is infeasible.
  - b. Seasonal semi-public facilities where siting a Title 5 compliant system is infeasible.

- c. Construction sites where the portable toilet would be used by workers on a site.
  - d. In cases of a repair to an existing Title 5 system, where extreme hardship due to disaster, construction delay or unforeseen circumstance exists and where said Title 5 system cannot be operated during occupancy.
2. Where a portable toilet located within a FEMA Flood Hazard Zone, as defined in Title 5, the contractor shall be responsible to remove the portable toilet from the site within 24 hours before named storms or gale force winds as defined by NOAA weather service bulletins are predicted to impact the Town.
  3. Portable toilets shall not be used as a substitute for Title 5 systems, to supplement the design capacity restriction of the existing on-site system or for campsites.
  4. The contractor shall have its name, current business address and current business telephone number conspicuously displayed on the exterior of the portable toilet.
  5. Waivers to the Section 5 requirements above may be requested by the site owner or the owner's agent by filing a request in writing with the Board that describes the waiver being requested and the reasons with supporting technical or factual documentation in support of the request. The request may be considered for approval by the Board at a public hearing.

## **6.0 ENFORCEMENT AND PENALTIES**

1. The Board may order that further use of portable toilets cease and desist, that it be removed from its location or otherwise brought into compliance upon a finding that the contractor or site owner had violated any of the provisions of these regulations or has failed to comply with any lawful order of the Board pursuant to these regulations.
2. Non-Criminal/Criminal Disposition. The Board or its authorized agent(s) shall enforce the regulation, license and permit and may pursue all civil and criminal remedies of violations. Violations may be enforced by criminal complaint in accordance with M.G.L. c. 111, §. 31. Violations of the regulations may also be enforced as set forth in M.G.L. c. 40, §. 21D and the Town By-laws.
3. Violations of section 4.1 - 4.2 are punishable by a penalty of \$25 for each offense. Each day that a violation occurs will constitute a separate offense.
4. Violations of section 5 are punishable by a penalty of \$25 for each offense. Each day that a violation occurs will constitute a separate offense.
5. Violations of an order of the Board shall be punishable by a fine of \$50. Each day that a violation occurs shall constitute a separate offense.
6. Nothing in this regulation is intended to limit or restrict the Board of Health or other board, commission, or officer of the Town to act in accordance with federal, state and local laws within their jurisdiction, including without limitation the authority of the Board to abate nuisances in accordance with M.G.L., c. 111, Sections 122-125.

7. Persons accused of violating this regulation or requesting a waiver to the provisions herein may request a hearing before the Board of Health in writing within ten (10) business days of being notified of a violation.

#### **7.0 SEVERABILITY**

This regulation is severable. If any provision of this regulation is held invalid, such invalidity shall not affect other provisions of the regulation and the application thereof.

#### **8.0 EFFECTIVE DATE**

This regulation shall be effective as of August 01, 2019.

**Town of Westport Board of Health**