



Minimum Lot Size Waiver Request Review Protocol

PURPOSE: To record protocol used for reviewing the [HHE-236: Application for Variance to the Minimum Lot Size Requirements](#), also known as the "Minimum Lot Size Waiver"

SCOPE: This review process applies to lots covered by the [Minimum Lot Size Rules: 10-144 CMR Ch. 243](#), based on (12 MRSA § 4807-B, 4807-C).

ORIGINATOR/OWNER: SWW Staff / DEH SWW Manager

DEFINITIONS/ACRONYMS:

DEH: Division of Environmental Health
SWW: Subsurface Wastewater

RESPONSIBILITIES: The Department of Environmental Health, Subsurface Waste Water group reviews minimum lot size waiver requests: [HHE-236](#)

BACKGROUND: This document incorporates into updated controlled documentation format, an earlier SWW document titled "Minimum Lot Size Waiver Request Protocol", kept in SWW records, dated February of 2000.

REVIEW PROTOCOL:

12 MRSA §4807-A states: "A lot of less than the size required may be used for subsurface wastewater disposal if approved in writing by the Department of Human Services. Approval shall be granted if the applicant demonstrates to the Department of Human Services that, based upon the amount and nature of wastes, construction of the subsurface disposal system, soil types and slopes, percolation rates, depth to bedrock and groundwater, density of any proposed development, and other relevant factors, the proposed subsurface waste disposal will not lower the water quality of or otherwise pose a threat to any lake, pond, stream, river or tidal waters, any underground water supply, or to the public health, safety and general welfare."

May apply for a Minimum Lot Size Waiver if:

1. The lot is not a single family lot of record - any lot which prior to January 1, 1970 was specifically described as an identifiable and separate lot.
2. The lot is not or has not been a contiguous undeveloped lot in the same ownership on or after October 3, 1973.
3. The lot is not smaller than 10,000 square feet.
4. The lot is not served by municipal or quasi-municipal sewer.
5. The lot does not have any structure that was in existence or in place on or before October 3, 1973 which then disposed of wastes by means of subsurface wastewater disposal, and the size of the lot upon which such structure is located has not been reduced to a size or frontage less than 20,000 square feet or 100 feet of frontage.

May receive a Minimum Lot Size Waiver approval if:

1. The applicant has submitted a completed application, including a) a signed and dated application form; b) a completed HHE-200 form conforming to the Maine Subsurface Wastewater Disposal Rules in effect at the time of application; c) a copy of the property's deed or other documentation showing right, title, or interest to the property; and d) the appropriate review fee. In addition, if the lot is within the Portland Water District jurisdiction, a letter of no objection from them must be included.
2. A single family lot which meets the following:
 - A. The system can be installed without a variance, other than the minimum lot size, and
 - B. There is adequate area for a full-size replacement disposal area, and
 - C. There is a public water supply available for the subject and abutting properties, or
 - C.1. The disposal area is at least 50 feet from property lines of abutting parcels.

-OR-

3. A project with design flow less than 2,000 gallons per day which meets the following:
 - A. The system can be installed without a variance, other than the minimum lot size, and
 - B. There is adequate area for a full-size replacement disposal area, and
 - C. The parcel is larger than 33.33 square feet/gallon per day times the design flow or the applicant demonstrates that the groundwater at any of the boundaries will not be degraded below drinking water quality, and,
 - C.1. There is a public water supply available for subject and abutting properties, or
 - C.2.a. If the design flow is less than 1,000 gallons per day and the disposal area is at least 50 feet from property lines of abutting parcels, or
 - C.2.b. If the design flow is 1,000-1,999 gallons per day and the disposal area is at least 150 feet from property lines of abutting parcels.

-OR-

4. A project with design flow of 2,000 gallons per day or greater which meets the following:
 - A. The system can be installed without a variance, other than the minimum lot size, and
 - B. There is adequate area for a full-size replacement disposal area, and
 - C. The parcel is larger than 33.33 square feet/gallon per day times the design flow or the applicant demonstrates that the groundwater at any of the boundaries will not be degraded below drinking water quality, and,
 - C.1. There is a public water supply available for subject and abutting properties, or
 - C.2. The disposal area is at least 250 feet from property lines of abutting parcels.

ASSOCIATED DOCUMENTS:

1. [Minimum Lot Size Rules: 10-144 CMR Ch. 243](#)
2. [Maine Subsurface Wastewater Disposal Rules, 10-144, Chapter 241](#), Sections 7-B and 8-C&E.
3. [HHE-236: Application for Variance to the Minimum Lot Size Requirements](#)

REVISION LOG:

Section	Page	Rev.	Date	Description of Change	Approved by:
			10-4-2021	"Minimum Lot Size Waiver Protocol" from 2/2000 recorded in current controlled documentation.	Nathan Saunders P.E.