Conversation with Jeff Svec (wastewater engineer, ANR, Springfield Office)

5/19/2023

State regs say nothing about port a potties, but a “dwelling” (see definitions) must have an approved water and wastewater system. A port a potty, alone, isn’t adequate. Exceptions might allow a port-a-potty for special occasions (wedding reception, etc.) when a big crowd is expected temporarily, but as the sole method of handling human waste, it isn’t sufficient.

A composting toilet is permissible under state rules, but the dwelling still needs a wastewater system designed by an engineer to handle wastewater from sinks, showers, washing machines, dishwashers, etc. The wastewater system would be 25% smaller than a wastewater system that has a toilet connected to it. But, if you must have a wastewater system anyway, why not enlarge it and connect a toilet to it? Still, if you want a composting toilet separate from an adequately designed wastewater system you can do it according to state rules.

I think a lot of this depends on the definition of a primitive camp vs. a dwelling unit and what is permitted in our different zoning districts. A composting toilet is okay in a camp that does not have a wastewater system, but camps are not allowed in RR zoning districts in Windham.

Some of this depends upon when a structure was built. If before 1/1/2007, no permit may be needed for a wastewater system. However, if a pre-existing structure is then upgraded to install indoor plumbing, or make improvements to wastewater systems, a permit is needed.

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|  **Email from Jeff Svec 5/19/23**  |
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Any building with its associated water supply and wastewater system that existed as of 1/1/2007 is exempt under the current Rules.

<https://dec.vermont.gov/sites/dec/files/dwgwp/rorules/pdf/Wastewater-System-and-Potable-Water-Supply-Rules-April-12-2019.pdf>

*Page 21 Subchapter 3 – Wastewater System and Potable Water Supply Permits*

*1-303 “Clean Slate” Permit Exemption
(a) The following are exempt from the permitting requirements of this Subchapter:
(1) All buildings or structures, campgrounds, and their associated potable water
supplies and waste water systems that were substantially completed before
January 1, 2007 and all improved and unimproved lots that were in existence
before January 1, 2007. This exemption shall remain in effect provided:
(A) No action for which a permit is required under these Rules is taken or
caused to be taken on or after January 1, 2007, unless such action is
exempt under one of the other permitting exemptions listed in § 1-302 or
§ 1-304.
(B) If a permit has been issued under these Rules before January 1, 2007 that
contained conditions that required actions to be taken on or after January
1, 2007, including conditions concerning operation and maintenance and
transfer of ownership, the permittee shall continue to comply with those
permit conditions.
(2) An owner of a single-family residence that qualified on January 1, 2007 for this
exemption shall not be subject to administrative or civil penalties under 10 V.S.A.
chapters 201 and 211 for a violation of these Rules when the owner believes the*

*supply or system meets the definition of a failed water supply or failed system
provided the owner:
(A) conducts or contracts for an inspection of the supply or system;
(B) notifies the Secretary of the results of the inspection; and
(C) has not taken or caused to be taken any other action on or after January 1,
2007 for which a permit would be required under these Rules.
(b) The use of a single-family residence served by a wastewater system or potable water
supply for which the exemption in Subsection (a) is in effect shall be considered year-
round unless the single-family residence was occupied for fewer than 180 days in each
calendar year between and including December 31, 1986 and December 31, 2006.*

*§ 1-201 Definitions (starts on page 3)*

*(13)* ***Building or Structure*** *– means a building or structure whose use or useful*

*occupancy requires the construction or modification of a potable water supply or*

*wastewater system.*

*(A) For the purposes of these Rules, the following are buildings or structures:*

*(i) A primitive camp.*

*(ii) A recreational vehicle, or vehicle used for commercial purposes,*

*and modified in one of the following ways, unless the vehicle is on*

*a campsite in a campground:*

*(I) placing skirting or insulation around the base of the*

*vehicle;*

*(II) placing the vehicle unit on a foundation or removing the*

*wheels;*

*(III) attaching a deck or stairs to the vehicle;*

*(IV) making the vehicle immobile in any way that inhibits the*

*vehicle from being driven off the lot in order to fill the*

*water holding tank and empty the wastewater holding tank;*

*(V) connecting the vehicle to a potable water supply or*

*wastewater system;*

*(VI) the vehicle, although qualifying as a vehicle, cannot travel*

*over Vermont roads without a special permit; or*

*(VII) occupying a vehicle that is not registered and inspected to*

*travel on the roads.*

*(B) For the purposes of these Rules, a cabin located on a campsite in a*

*campground is not a building or structure.*

*(C) For the purposes of these Rules, a remote hut used by outdoor*

*recreationists with no connection to a water source, no connection to a*

*wastewater system (other than a composting or incinerating toilet that does*

*not yield a liquid, provided its contents are disposed of in compliance with*

*§ 1-929), and accessible only by foot or water, is not a building or*

*structure.*

*(D) Examples of other buildings or structures: single-family residences;*

*accessory apartments; duplexes; yurts; yomes; cabins; multi-unit*

*buildings; condominiums; apartments; mobile homes; hospitals; nursing*

*homes; motels; hotels; restaurants; filling stations; boarding houses;*

*rooming houses; dormitories; stores or shops; buildings or structures used*

*as places of public assembly, places of employment, or home occupations;*

*offices; manufacturing facilities; industrial facilities; and farm buildings or*

*structures.*

What a building is, would be determined by its actual exempt or permitted use.

A property would be exempt under Section 1-303 for the existing building, its existing use, its existing water supply and its existing wastewater system as of 1/1/2007.

Any changes after that date could require a permit.

<https://dec.vermont.gov/sites/dec/files/dwgwp/rorules/pdf/Wastewater-System-and-Potable-Water-Supply-Rules-April-12-2019.pdf>

Permit triggers are listed on page 18 in Section 1-301.

The construction of a building or structure requires a permit.

A proposed building or structure requires a water supply and a wastewater system.

A water supply requires a permit.

A wastewater system requires a permit.

Yurts, RVs and primitive camps are included in the definition of a building or structure on page 4 of the Rules.

The use of RVs on a property and whether they are considered a building or structure is addressed on page 4 Section 1-201(13)(A).

The definition of a primitive camp is listed on page 14 Section 1-201(75).

The Exemption for a primitive camp is listed on page 22 Section 1-304(3).

Changes in use that increase design flow and/or modify the operational requirements of the water or wastewater system (as per definition 65 on page 12 of the Rules) would trigger a permit requirement. Conversion from seasonal to year round use is a modification to the operational requirements of a water supply or wastewater system.

If a seasonal home gets converted to a year-round residence a permit is required and they need to have a Licensed Designer submit an application for the conversion which can require plans for a new wastewater system and/or water supply in some cases.

“Seasonal” is defined in the Rules.

(86) Seasonal – in reference to the use of a single-family residence, means occupancy

of the residence for less than 180 days in each calendar year; as used elsewhere in

these Rules.

It is mostly used in the Rules in the context of converting a seasonal home to a year round home which requires a permit.

There is no exemption for a seasonal home. Construction of a seasonal home or conversion from seasonal to year-round would require water and wastewater systems designed and permitted by a Licensed Designer.

The definition of a primitive camp is listed on page 14 Section 1-201(75).

(75) Primitive Camp – means a living unit, the occupancy of which neither exceeds 3

consecutive weeks per calendar year nor exceeds a total of 60 days per calendar

year, that has no interior plumbing except for one sink with water. Primitive

camps may contain a composting or incinerating toilet that does not yield a liquid

provided its contents are disposed of in compliance with § 1-929.

Primitive camps are considered a building or structure but the Rules include an exemption for Primitive Camps.

The Exemption for a primitive camp is listed on page 22 Section 1-304(3).

The use of composting toilets can be permitted under the 2019 Wastewater System and Potable Water Supply Rules as described in the Rules and the guidance document linked below.

(See WW Rules Section 1-929 pages 149-150)

<https://dec.vermont.gov/sites/dec/files/dwgwp/wastewater/pdf/DEC%20Composting%20Toilet%20Guide_2020.02.24.pdf>

All other wastewater from the building would need to be disposed of in an approved wastewater disposal system and would require a permit with designs and an application submitted by a Licensed Designer. The permitted wastewater system can be designed with up to a 25% reduction in size when all toilets in the structure are composting or incinerating toilets.

A Licensed Designer would design and locate on the site an approvable water supply and wastewater disposal system and apply to obtain a permit.

The Licensed Designer completes the online application for a permit and submits the application and design plans electronically.

Any project triggering a permit requires fully complying water and wastewater systems, designed and permitted by a Licensed Designer.

The first step in obtaining any needed Permit is to contact a Licensed Designer.

List of Licensed Designers:

<https://dec.vermont.gov/sites/dec/files/dwgwp/designerlicense/pdf/ApprovedLicences%20updated%2002.11.2022.pdf>

<https://dec.vermont.gov/water/licensed-designers>

Program website:
<https://dec.vermont.gov/water/ww-systems>

Link to WW Rules:

<https://dec.vermont.gov/sites/dec/files/dwgwp/rorules/pdf/Wastewater-System-and-Potable-Water-Supply-Rules-April-12-2019.pdf>

<https://dec.vermont.gov/water/laws/ww-systems-rules>

<https://dec.vermont.gov/water/laws>

Jeff Svec

Bill’s conclusions from the preceding email and conversation

 5/19/23

A building or structure constructed after Jan. 1, 2007 that is occupied, even on a part time basis, in a Rural Residential district must have a permit for a potable water supply and a wastewater system that has been designed by a state licensed designer. This includes an RV that has been modified in a way(s) that make it what Windham’s zoning regs define as a “dwelling unit”.

Primitive camps (which contain no indoor plumbing except for a sink with water, and have a composting, or chemical toilet, that produces no liquid waste) are exempt from this rule. However, Windham’s zoning regs do not allow camps in Rural Residential districts.

Composting toilets are allowed in Rural Residential areas assuming the waste is disposed of according to state regulations. However, a dwelling with a composting toilet still must have a potable water supply and wastewater disposal system to handle water from sinks, showers, dishwashers, washing machines, etc. This, in effect, means that the wastewater system must include a septic tank and leach field. If there is a composting toilet, the wastewater system can be up to 25% smaller than a system that is connected to a toilet. But a licensed engineer still has to design it and the owner still needs a permit. Most people will design a wastewater system that includes a toilet, but it is accetable to have a composting toilet (or, presumably, an incinerating toilet) that is separate, as long as it complies to the regulations noted above.

Per my conversation with Jeff, state regulations do not mention port-a-potties, but there is no reason to believe a port-a-potty is acceptable as the sole means of handling human waste for a building or dwelling unit. In addition, a parcel in a RR district in Windham with a port-a-potty also would need to have a permit for a potable water supply and wastewater system.