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## PART 74

### APPROVAL OF REALTY SUBDIVISIONS

(Statutory authority: Public Health Law, § 1120)

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**Section 74.1 Definitions.** As used in this Part, unless the context otherwise requires:

- (a) *Subdivision* shall have the meaning ascribed to it in section 1115 of the Public Health Law.
- (b) *Developer* means a person, partnership, corporation, or other legal entity undertaking or participating in the establishment of a subdivision.
- (c) *Individual water supply system* means a single system of piping, tanks or other facilities together with a source of water intended to supply only a single lot.
- (d) *Individual sewerage system* means a single system of piping, tanks or other facilities serving only a single lot and disposing of sewage or other liquid wastes into the soil of the lot.
- (e) *Community water system* means a source of water and necessary appurtenances together with a distribution system serving more than one lot, whether owned by a municipal corporation or private utility.
- (f) *Community sewerage system* means a system utilized for the collection and disposal of sewage, or other wastes of a liquid nature, including the various devices for the treatment of such wastes serving more than one lot, whether owned by a municipal corporation or private utility.
- (g) *Comprehensive study* shall have the meaning ascribed to it in sections 1263-a and 1361 of the Public Health Law, for public sewerage and refuse respectively, or in section 442 of the Conservation Law, for public water, as applicable.
- (h) *Department* means the New York State Department of Health.
- (i) *Commissioner* means the New York State Commissioner of Health.
- (j) *Dry sewer* means a pipe intended to carry domestic waste at such future time as sewerage and treatment facilities are constructed.

## **Section 74.2 Applications for approval.**

- (a) Applications for approval of water supply and related sewerage facilities to serve a realty subdivision as conforming with the standards prescribed in this Part shall be made on forms provided by the department.
- (b) Applications for approval shall be accompanied by such maps, plans, reports, specifications and data as the commissioner may require or direct.

## **Section 74.3 Plan submissions.**

- (a) All plans submitted for approval shall be in conformance with the relevant provisions of department Bulletin 40\* entitled *Planning the Subdivision as Part of the Total Environment - An engineering Guide to the Preparation and Submission of Plans for Realty Subdivisions*.
- (b) Plans other than those for community water and sewerage systems shall not propose to furnish water to more than one lot and/or to dispose of sewage from more than one lot.
- (c) Where a developer proposes to obtain and furnish water supply and/or sewerage facilities for a subdivision by connection to an existing community water and/or sewerage system, the developer shall supply the commissioner with a certification in writing by the owner of the utility that such facilities will be furnished and kept available and in good operating condition for the subdivision.
- (d) The commissioner at his discretion may require the developer to furnish a performance bond to the owner of such utility conditioned upon the developer's making connection to the utility within a specified period of time.
- (e) The proposals for realty subdivision development shall conform with all applicable comprehensive studies, including air, water, sewerage and solid wastes.

## **Section 74.4 Sewerage facilities.**

- (a) A community sewerage system is required when:
  - (1) a subdivision is located in an existing sewer district or service area;
  - (2) a subdivision is reasonably accessible to an existing sewer district or service area. This requirement shall apply in the absence of proof satisfactory to the department that the developer cannot effect arrangements for the installation and/or connection of the sewerage system to the existing sewer district or service area facilities;

\*Bulletin 40 has not been filed in the office of the Department of State; however, for informational purposes it has been published as Appendix 74-A, *infra*.

#### **Section 74.4 Sewerage facilities (continued)**

- (3) the soil percolation rate is lower than 60 min/in.;
  - (4) the subdivision consists of 50 lots or more;
  - (5) the subdivision consists of 200 or more residents in the aggregate;
  - (6) a minimum separation of two feet cannot be maintained between the lowest part of the leaching system and the highest elevation of the top of the zone of water saturation, rock, hardpan or other impermeable material at all times of year; or
  - (7) an approved comprehensive study exists.
- (b) Only subsurface leaching systems utilizing a septic tank may be employed on an individual basis in lieu of the provision of a community system. Septic tanks shall be designed and installed so that they are readily accessible for inspection and cleaning. Where individual water supply and sewage disposal systems are to be installed on a single lot, the minimum lot area shall be 20,000 square feet.
- (c) When a community system is required and where the soil is suitable, interim individual sewerage systems may be permitted by the commissioner, provided that:
- (1) dry sewers are designed and installed consistent with the community sewerage plan;
  - (2) plumbing is installed from the house to the dry sewer to facilitate individual connection to the community system; and
  - (3) such community sewerage service will be operative in five years.
- (d) The relevant provisions of Bulletin 1\* entitled *New York State Health Department Standards for Waste Treatment Works* will be the basis upon which all plans, specifications and reports for sewerage systems, individual or community, will be reviewed for approval by the department.

#### **Section 74.5 Water facilities**

- (a) A community water system is required when:
- (1) the subdivision is located in an existing water district or service area;
  - (2) the subdivision is reasonably accessible to an existing water district or service area. This requirement shall apply in the absence of proof satisfactory to the department that the developer cannot effect arrangements for the installation and/or connection of the water system to the existing water district or service area facilities;

\*Bulletins 1, 42 and *Rural Water Supply* have not been filed with the Department of State; however, for informational purposes they have been published as Appendixes 72-A [75-A], 5-A and 5-B, respectively, *infra*.

### **Section 74.5 Water facilities. (continued)**

- (3) individual wells cannot provide an average yield of five gpm;
  - (4) the subdivision consists of 50 lots or more;
  - (5) the subdivision consists of 200 or more residents in the aggregate;
  - (6) ground waters are non-potable; or
  - (7) an approved comprehensive study exists.
- (b) (1) Community water systems shall be capable of delivering water at an average rate of 100 gal/capita/day when service connections are unmetered, or 75 gal/capita/day when service connections are metered.
- (2) Community water systems shall be designed to deliver water meeting the requirements of Part 5 of this Title.
- (3) Community water systems shall provide for continuity of water service. Ground water shall not be relied on unless at least two sources are available.
- (4) Community water systems shall have at least one day's available storage at design average consumption.
- (c) Individual wells shall assure an average yield of five gpm of potable water.
- (d) The relevant provisions of department Bulletin 42\* entitled *Recommended Standards for Water Works* will be the basis upon which all plans, specifications and reports for community water systems will be reviewed for approval by the department, and the department bulletin *Rural Water Supply*\* will be the basis upon which individual water supply systems will be reviewed for approval.

### **Section 74.6 Variances.**

- (a) The commissioner may on written application grant a variance from a specific provision of this Part in a particular case, subject to appropriate conditions, where such variance is in harmony with the general purpose and intent of this Part.
- (b) The commissioner may impose more stringent requirements in a specific case when necessary to assure an adequate and satisfactory water supply and sewerage facility for the subdivision.

\*Bulletins 1, 42 and *Rural Water Supply* have not been filed with the Department of State; however, for informational purposes they have been published as Appendixes 72-A [75-A], 5-A and 5-B, respectively, *infra*.

## **Section 74.7 Other environmental factors.**

Upon request the developer shall provide the commissioner or his authorized representative with a report and such plans as may be needed, covering the following environmental factors:

- (a) the method of solid waste collection and disposal;
- (b) the extent to which proposed land uses and structures may cause air pollution;
- (c) the methods for grading to prevent changes in soil percolation capacity and to provide for adequate collection and disposal of surface and ground water;
- (d) the methods to prevent contravention of surface and ground water quality standards;
- (e) the effect on the subdivision of environmental pollutants or hazards either on the property or from surrounding areas, resulting from such facilities, activities or conditions as industrial or commercial structures or operations, highways, solid waste disposal sites, swamps, quarries, sink holes, limestone deposits, gravel pits. Airports, watercourses, agricultural uses, flood plains and unstable soil condition; and
- (f) the potential effect of the subdivision on environmental factors in surrounding areas.