

Guidance Related to the Wastewater System and Potable Water Supply Rules
Effective September 29, 2007

Guidance Document
2008-01 Second Revision¹

When are Single Family Residences considered to be in Year-round Use?

Issued Christine Thompson April 13, 2009

As of July 1, 2007, the conversion of a single family residence from seasonal to year-round use requires a permit. As of September 29, 2007 these conversions are subject to §1-315 of the Wastewater System and Potable Water Supply Rules.

A single family residence that was in existence as of midnight, December 31, 2006 will be considered to be a year-round residence if it has been occupied as a single family residence for at least 180 days in a one year period between December 31, 1986, and December 31, 2006.

If, after December 31, 2006, a year-round residence has been occupied for shorter periods of time, it shall maintain its status as a year-round residence unless there have been specific actions taken to limit the use to seasonal use or to convert the building to other than use as a single family residence. Examples of such limitation include, but are not limited to:

- A. a deed restriction;
- B. a legal agreement with the municipality in which the building is located to limit or convert the use; or
- C. a building deteriorated to the point where it no longer meets the requirements for being substantially completed and which remains in such a state for a period beyond that allowed for reconstruction of buildings destroyed or voluntarily removed. When a year-round residence has been replaced subject to §1-304(a)(21) of the Rules, it will continue to be classed as a year-round residence.

Notwithstanding the preceding language, some single family residences remained exempt under §1-403(a)(1) and (2) of the January 1, 2005 version of the Rules until July 1, 2007. If such residences had been occupied for at least 180 days in a one year period between December 31, 1986 and July 1, 2007, they will be considered to be year-round residences provided that the conditions of the exemption were met between December 31, 2006 and June 30, 2007.



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In addition to being considered as a year-round residence based on actual occupancy as described above, a single-family residence will be considered to be a year-round residence when:

- A. The single family residence is subject to a permit under these Rules, unless:
1. the permit limits the use;
 2. the application on which the permit is based states that the application is not for year-round use or
 3. the supporting information submitted as part of the application specifically indicates that the residence does not qualify for year-round use.
- B. The single family residence is not permitted under these Rules, and was not occupied as a year-round residence prior to January 1, 2007, provided the residence, wastewater system and potable water supply are constructed in accord with §1-304(a)(3) of the Rules, or §1-403(a)(21) of the 2005 version of the Rules, unless:
1. the municipal permit limits the use;
 2. the application on which the permit is based states that the application is not for year-round use or
 3. the supporting information submitted as part of the application specifically indicates that the residence does not qualify for year-round use.
- Note: This exemption may cover some single family residences not yet constructed.
- C. The single family residence is not permitted under these rules but was constructed in accordance with the permit exemption of §1-403(a)(3) of the Wastewater System and Potable Water Supply Rules, effective January 1, 2005.
- D. The single family residence is connected to both a municipal water supply and a municipal wastewater system and owner(s) of the supply and system have not imposed any restriction against year-round use.

NOTE: The Agency will accept an affidavit from the owner of the residence that attests to the fact that the residence has been used on a year-round basis in accordance with this guidance as proof of year-round residence status unless contradictory evidence is submitted to the Agency.

¹ This second revision was to correct a Rule reference in section B on page two from the 2002 version of the Rules to the 2005 version.