

**Guidance Related to the Wastewater System and Potable Water Supply Rules  
Effective September 29, 2007****Guidance Document 2015-01**

Issued

 9/10/2015**§ 1-201(a)(9) Determining When an RV is a Building or Structure**

The Wastewater System and Potable Water Supply Rules (Rules) states that a permit is required for the construction of a building or structure; the construction, modification or replacement of a wastewater system; and the construction, modification or replacement of a potable water supply. The Rules also states that a permit is required for campground; a lot of land containing more than three campsites occupied for vacation or recreational purposes by camping units such as: tents, yurts, tepees, lean-tos, camping cabins, and recreational vehicles (RV) including motor homes, folding camping trailers, conventional travel trailers, fifth wheel travel trailers, truck campers, van campers, and conversion vehicles designed and used for travel, recreation and camping. A lot of land with three or fewer campsites that did not construct a building or structure or a wastewater system or water supply is exempt from the permitting requirements of the Rules.

The Rules makes a clear distinction between a building and structure and an RV that is self-contained. The distinction is similar to why mobile food units that are self-contained are not considered a building or structure. Without such an approach, every RV or mobile food unit would require a permit for a wastewater system and public or potable water supply.

When one of the following actions occurs, an RV becomes a building or structure whose useful occupancy requires a potable water supply and wastewater system unless the occupancy and physical features of the RV meets the primitive camp criteria:

1. providing skirting or insulation around the base;
2. placing the RV unit on a foundation or removing the wheels;
3. attaching a deck or stairs to the RV;
4. making the RV immobile in any way that inhibits the RV from being driven off the lot in order to fill the water holding tank and empty the wastewater holding tank (this include not removing snow so the RV can be driven off the lot);
5. failure to drive the RV off the lot for filling the water holding tank and emptying the wastewater holding tank;
6. the unit, although qualifying as an RV, cannot travel over Vermont roads without a special permit; or
7. occupying an RV that is not registered and inspected to travel on the roads.

Note: Connecting an RV to a wastewater system or potable water supply requires a permit. The one exception is the connection of an RV to a wastewater system or potable water supply that serves a single family residence on its own lot when the RV and residence are owned by the same person and the RV is not occupied either seasonally or year round on the lot.

To make the determination of when an RV is a building or structure, reference is made to previous decisions when an RV is considered a residence including:

- A memo from Jonathan Lash, Commissioner, to Gary V. Shultz, Director, dated May 8, 1986 regarding an appeal of a decision involving parking an RV on a lot subject to the waiver of developmental rights. In the memo, Commissioner Lash states “In interpreting this language it is important to remember that these are health based regulations designed to prevent the installation of inadequate sewage disposal facilities. The language deals with “the construction or erection of any building or structure”. The temporary location of a self contained self powered recreational vehicle on the lot does not constitute construction or erection. The fact that that vehicle includes plumbing and a holding tank does not make parking the vehicle “construction or erection”<sup>(1)</sup> and does not give us jurisdiction of the subdivision regulations<sup>(2)</sup>.” The memo states further “This does not mean that there are no circumstances under which placement of an RV on a deferred lot would come within the jurisdiction of the Subdivision Regulations. The critical issues are the extent to which the actions of the owner or user constitute construction or indicate permanence rather than temporary use. Such indications might include putting the vehicle on blocks, constructing steps, porches, paths or other permanent or semi-permanent facilities to serve the vehicle, leaving the vehicle in place for a period of weeks and failing to drive the vehicle off the lot to have the holding tanks pumped out and replenish other supplies. Depending on the precise situation, one or a combination of these facts, would be sufficient to subject the activity to our jurisdiction.” Commissioner Lash notes that the Attorney General’s Office agreed with this decision.  
<sup>(1)</sup> Current Rules refer to the construction of a building or structure.  
<sup>(2)</sup> At the time of the memo, jurisdiction over a single family residence on its own lot was under the Subdivision Regulations.
- A memo to Regional Office Staff dated September 12, 2002, at the time the Rules closed the 10 acre exemption, described types of structures that would be considered a residence. The memo included “An established recreational vehicle being used as a primary residence, with permanent installation (i.e. enclosed around the bottom and insulated, a deck) using the complete and usable water supply and wastewater system including a functional bathroom and lavatory.”
- A procedure dated September 7, 2006 was created to provide guidance on what constitutes an improved lot. Note 5 of the procedure states, in part “An RV on a lot with existing water and/or wastewater systems, all of which existed prior to being subject to State regulation, may continue to be used in the same manner.”

#### **Definitions from the Rules:**

A building or structure means a building or structure whose use or useful occupancy requires the construction or modification of a potable water supply and/or wastewater system.

A campground means any lot of land containing more than three campsites occupied for vacation or recreational purposes by camping units such as tents, yurts, tepees, lean-tos, camping cabins, and



recreational vehicles including motor homes, folding camping trailers, conventional travel trailers, fifth wheel travel trailers, truck campers, van campers, and conversion vehicles designed and used for travel, recreation and camping. The Rules then defines a campsite as an area in a campground that is designed to accommodate a camping unit for which design flows will be calculated.