

INSTRUCTIONS FOR COMPLETING THE LANDOWNER'S CERTIFICATION AND CHECKLIST FOR DETERMINATION OF QUALIFICATION FOR LIMITED CONDITIONAL AMNESTY FROM STATE SUBDIVISION PERMIT REQUIREMENTS.

BACKGROUND INFORMATION

On July 1, 1999, Act 46 of the 1999 Legislative session took effect. This statute grants limited, conditional amnesty for violations of the state permitting requirements for the subdivision of land set forth in 18 V.S.A. section 1218. This amnesty provision however, only applies under certain conditions. In order to determine if this amnesty program applies, the attached forms should be completed and may be submitted to one of the regional offices of the Agency of Natural Resources for review.

The amnesty program only applies to lots which required state Subdivision permits and which were subdivided as of January 1, 1999. Amnesty applies to lots that were developed and to vacant lots so long as the lot had been subdivided as of January 1, 1999. Amnesty is granted for both the failure to obtain a state Subdivision permit and past non-compliance with a state Subdivision permit. PLEASE NOTE: If the property contains anything other than just one single family residence, other state permits (such as Water Supply and Wastewater Permits) may be required. There is NO amnesty for these other permit requirements. So, for example, if your property contains a duplex, an apartment, or a commercial use of some kind, amnesty for your subdivision permit violations may not clear the title of your property. In addition, a property which qualifies for amnesty from state subdivision permitting requirements may not be exempt from municipal regulations and municipal permits may also be required. There are other conditions that must be met for the subdivision amnesty to apply.

INSTRUCTIONS FOR COMPLETING THE ATTACHED FORMS AND ANSWERING THE QUESTIONS ON THOSE FORMS.

The checklist which has been included in this packet of information asks a series of questions which will help you to determine if your property qualifies for amnesty. Please read the following information and instructions carefully in order to provide accurate information.

Question 1.

A subdivided lot is exempt from the requirements for a permit under the state Subdivision Regulations if:

1. An entire parcel is being transferred, no new parcel is being created; or
2. The parcel being created is ten acres or larger in area and no other parcel of less than ten acres is created by the sale; or

3. The parcel was approved by a municipality pursuant to the administration of a subdivision ordinance or by law prior to September 18, 1969; or
4. The parcel was a portion of a plot prepared by an engineer or land surveyor, which has been filed for record in the town clerk's office of the town in which the subdivision is situated, on the basis of which plot, one or more lots depicted thereon have been conveyed or made the subject of contract for sale prior to September 18, 1969; or
5. The parcel was not of record on September 18, 1969, but which the Wastewater Management Division of the Department of Environmental Conservation accepted as a subdivision existing on that date on the basis of evidence submitted to the Division prior to July 1, 1970; or
6. The parcel is part of a subdivision which on March 5, 1973, contained two or more structures which were used on or before that date as primary single or two family residences, but only to the extent that the proposed subdivision would create a boundary between two such structures; or
7. The parcel is divided by a State or municipal highway right-of-way or surface water with a drainage area greater than ten square miles, or
8. The parcel was acquired by the seller with the same boundaries as it will be conveyed, although contiguous to other lands of the seller; or
9. The parcel was created by State or municipal condemnation for highway or utility construction; or
10. The parcel contains a primary single family residence, or a public building with design flows of domestic type sewage of 300 gallons per day or less, constructed there prior to March 5, 1973, when the following conditions exist:
 1. The structure is served by a public water supply approved by the Department of Environmental Conservation or a private water supply which has been tested and meets the drinking water quality standards set forth in the Environmental Protection Rules; and
 2. The structure is served by a municipal sewage disposal system approved by the Department of Environmental Conservation; or has a functioning on-site sewage disposal system not causing apparent pollution or a health hazard with the disposal field at least 100 feet from any property boundary created by the conveyance. If the sewage disposal system is an outhouse or other system not requiring interior plumbing and conventional subsurface disposal, the 100 feet will be measured from the location where a subsurface disposal system would likely be installed;
 3. This exemption does not apply to seasonal camps;

11. The parcel contains a seasonal camp constructed or erected prior to June 1, 1970, which has not been used as a primary single family dwelling, but has been used as a seasonal camp since that date if:
- Any existing sewage disposal and water supply facilities are functioning without causing a health hazard or source of pollution; and
 - An application is submitted to the Wastewater Management Division and approved showing a design for replacement sewage disposal and water supply facilities which meet the technical standards of the Environmental Protection Rules; and
 - The applicant has provided a legal mechanism which insures that the existing structure will remain in seasonal use unless approval for conversion to primary residential occupancy is issued by the Wastewater Management Division; and
 - No unimproved lots less than ten acres in size are created without a permit as a result of the subdivision.

Question 2a. Examples of permit conditions that require actions to be taken after January 1, 1999 include: annual inspection of a leach field by a registered professional engineer; a requirement that a copy of the permit be shown to prospective purchasers; and submission of monitoring results. These are merely examples. Please read your permit carefully to determine if there are any other ongoing permit requirements.

Question 2c. If you do not know whether there was compliance with all other conditions of the permit or have no way to verify permit compliance, answer no in response to this question and continue to fill out the form.

Question 3a. If you answered no to this question and if the lot was subdivided as of January 1, 1999, different amnesty conditions apply. 18 V.S.A. section 1218 (d) (1) (B) requires that prior to the construction of a building or structure on the undeveloped lot, a state subdivision permit must be obtained. If the undeveloped lot is subdivided after January 1, 1999, a state subdivision must be obtained. Finally, if you wish to sell the undeveloped lot, prior to the transfer of ownership the following language must be inserted into the deed that describes the affected property if no subdivision permit has been obtained: "Notice of Permit Requirements. In order to comply with applicable state rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the parcel of land described by this deed if the useful occupancy of that structure or building will require the installation of a potable water supply or wastewater system, without first complying with the applicable rules and, if necessary, obtaining the required permit. Any person who owns this property acknowledges that this parcel may not be able to meet state standards for a potable water supply or wastewater system and, therefore, this parcel may not be able to be developed."

Question 5. The following is a list of significant modifications to a structure or building that would increase design flows and, therefore, terminate amnesty so that a permit or permit amendment is required. Please note that these are merely examples which do not cover all possible circumstances. For residential buildings, a significant modification that would affect the design flow would be the addition of bedrooms or other space specifically intended to increase the maximum occupancy of the residence. Adding a space which is intended for sleeping quarters and calling it a loft terminates amnesty and triggers the requirement to obtain a permit or permit amendment. Examples of significant modifications for non-residential buildings include adding seats in restaurants, theaters, conference centers, and other places of assembly. Increases in the number of employees in office, manufacturing, and other spaces would increase the design flow. Adding spaces in a mobile home park or campground would also end the amnesty.

PLEASE NOTE: If the property contains anything other than just one single family residence, other state permits may be required. There is NO amnesty for these other permit requirements.

Question 6. The following is a list of significant modifications to a water system or a wastewater disposal system which would terminate amnesty so that a permit or permit amendment is required. Please note that these are merely examples which do not cover all possible circumstances.

Water supply - this section is primarily triggered when a new well is constructed. Relocating the water source to a new location on or off the lot, or changing from a drilled well to a shallow well or vice versa, will normally terminate amnesty and trigger the requirement for a permit or permit amendment. When the lot has only one single family dwelling on it, replacement of the well pump, even with a larger unit, replacement of the water line, or deepening of the existing well will not require a permit or permit amendment. When the lot has something other than one single family residence on it, such as a duplex, store, or office building, a permit or permit amendment may be required.

Wastewater - this section is primarily triggered by work on the leachfield portion of the disposal system. Any work on a leachfield, including replacement of the crushed stone or pipes, digging around an existing drywell, expanding, relocating or reconstructing an existing leachfield would normally terminate amnesty and trigger the need for a permit or permit amendment. When the lot has only one single family dwelling on it, replacement of the septic tank or the lines from the house to the tank or from the tank to the leachfield will not require a permit or permit amendment. Replacement of a pump would not require a permit or permit amendment. When the lot has something other than one single family residence on it, such as a duplex, store, office building, a permit or permit amendment may be required.

PLEASE NOTE: If the property contains anything other than just one single family residence, other state permits may be required. There is NO amnesty for these other permit requirements.

Question 7. Your property must be hooked up to both a municipal sewer line and a municipal water supply in order to answer yes to this question. In some circumstances, your property may be served by a water district or fire district. These are considered to be municipal water hook-ups for the purposes of this question. Some properties may not have a septic system on-site. If your septic hook-up goes to a centralized treatment plant which is run by a privately owned company, that is considered to be a municipal hook-up for the purposes of this question. You can not answer yes to this question if your septic hook-up is to a community leachfield or if your water hook-up is to a shared well operated by a homeowner's association.

Question 8a. Under 10 V.S.A. section 1218 (d) (3) (A) a wastewater disposal system has failed when the system is functioning in a manner that: allows wastewater to be exposed to the open air, pool in the surface of the ground, discharge directly to surface water, or back up into a building or structure, unless the approved design of the wastewater system specifically requires the system to function in such a manner. These are fairly obvious problems that the average homeowner probably will be aware of if they happen. This question refers to the "existing" wastewater disposal system having failed. Your existing wastewater system is the one that you had as of January 1, 1999. Wastewater disposal systems that had failed in the past and had been replaced prior to January 1, 1999 are not considered to be existing failed systems for the purposes of this question.

Note: systems "whose approved design required them to function in such a manner" include constructed wetlands and other septic system designs that have been approved by the state. This language will only apply if your property has a state subdivision permit and your septic system was built in accordance with the plans approved by the permit. There may be some circumstances, however, where the landowner is not certain or cannot verify if any of these things have happened. If this is the case, answer no in response to the question and continue to question 8b.

Question 8b. Under 10 V.S.A. section 1218 (d) (3) (B), (C), and (D), a wastewater disposal system has failed when it is functioning in a manner so that: a potable water supply is contaminated or rendered not potable, it presents an imminent hazard to human health, or it presents a serious threat to the environment. In order to determine if these problems exist, you must have a licensed site technician or registered professional engineer complete the wastewater disposal system checklist form included in this packet of information. Whether or not you can use a site technician to perform this work will depend on whether the original creation of the lot is considered to be the creation of "a

single lot subdivision." Site technicians can do the work only for "single lot subdivisions."

A "single lot subdivision" means dividing a parcel of land so that only one lot of less than 10 acres is created in a two year period. If when creating the first lot the remaining land is less than 10 acres both lots are "single lot subdivisions."

IMPORTANT: PLEASE NOTE THAT EVEN IF YOUR PROPERTY QUALIFIES FOR THE AMNESTY PROGRAM AT THE TIME YOU COMPLETE THESE FORMS, YOU CAN LOSE THE AMNESTY IF:

- **THE SEPTIC SYSTEM FAILS IN THE FUTURE; OR**
- **THE PROPERTY IS SUBDIVIDED IN THE FUTURE; OR**
- **THE BUILDING OR STRUCTURE IS SIGNIFICANTLY MODIFIED IN THE FUTURE SO THAT DESIGN FLOWS ARE INCREASED.**
- **THE WATER SUPPLY OR SEPTIC SYSTEM IS SIGNIFICANTLY MODIFIED IN THE FUTURE.**

IF ANY OF THESE THINGS OCCUR, YOU WILL BE REQUIRED TO OBTAIN A STATE SUBDIVISION PERMIT.