



CONCORD BOARD OF HEALTH

141 Keyes Road
Concord, MA 01742
Phone: (978) 318-3275



Public Health
Prevent. Promote. Protect.

Deed Restrictions and the Form C Building Review Policy

The Board of Health seeks to have a consistent, fair, and equitable means to enforce the Title 5 design flow criteria while supporting the housing needs of the community. A deed restriction is a means of allowing a larger living space without having to increase the capacity of the existing septic system.

The Concord Board of Health has allowed deed restrictions since the code's implementation in 1995 based on the formula given within the definition of a bedroom in 310 CMR 15.002:

“Bedroom - A room providing privacy, intended primarily for sleeping and consisting of all of the following:

- (a) floor space of no less than 70 square feet;*
- (b) for new construction, a ceiling height of no less than seven feet three inches;*
- (c) for existing houses and for mobile homes, a ceiling height of no less than seven feet zero inches;*
- (d) an electrical service and ventilation; and*
- (e) at least one window.*

Living rooms, dining rooms, kitchens, halls, bathrooms, unfinished cellars and unheated storage areas over garages are not considered bedrooms. Single family dwellings shall be presumed to have at least three bedrooms. Where the total number of rooms for single family dwellings exceeds eight, not including bathrooms, hallways, unfinished cellars and unheated storage areas, the number of bedrooms presumed shall be calculated by dividing the total number of rooms by two then rounding down to the next lowest whole number. The applicant may design a system using design flows for a smaller number of bedrooms than are presumed in this definition by granting to the Approving Authority a deed restriction limiting the number of bedrooms to the smaller number.”

Formula Examples:

7 total rooms, 3 bedrooms labeled on plans = 3 bedroom septic system required.

8 total rooms, 3 bedrooms labeled on plans = 3 bedroom septic system required.

8 total rooms, 4 bedrooms labeled on plans = 4 bedroom septic system required.

9 total rooms /2 = 4.5 (round down) = 4 bedroom septic system required.

10 total rooms /2 = 5 (no rounding) = 5 bedroom septic system required.

11 total rooms /2 = 5.5 (round down) = 5 bedroom septic system required.

12 total rooms /2 = 6 (no rounding) = 6 bedroom septic system required.

Concord BOH approved 03/27/2024.

With the 2023 passing of the zoning bylaw 4.2.2.2., the demand for secondary structures such as additional dwelling units (ADU's), barns, pool cabanas, and other spaces is significantly higher.

All proposed additions/renovations and new construction are reviewed via the "Form C" process using this Title 5 formula for determining the bedroom count with the following criteria taken into consideration:

- Original septic system design plans and/or installation as-builts are the preferred records to use for the review.
- Title 5 inspection reports and Disposal System Construction Permits are only used to determine a septic system's design flow in the absence of design plans or as-builts.
- The originally permitted design flow on the DSCP is considered the actual design flow regardless of the tank or leach field/pit size. For example, an older system that was permitted as a 4 bedroom system is considered a 4 bedroom system regardless if the leaching field/pit(s) could handle a higher flow, or if the tank is undersized by today's standards (i.e., 1000g single chamber).
- Large open spaces may be counted as multiple rooms based on intended use, i.e., a single open space that includes a kitchen/dining/living area is counted as 3 rooms.
- Deed restrictions are not allowed for new construction; all new construction shall meet maximum feasible compliance with 310 CMR 15.
- A deed restriction shall only be granted when the room count exceeds the design flow by one bedroom maximum. Any room count that is two or more bedrooms higher than the design flow is deemed to have "insufficient leaching capacity".

Examples:

1. A house has a 4 bedroom septic system and 9 total rooms. The family wishes to build an ADU above the garage that has one bedroom plus an open space consisting of a kitchenette, dining, and living area. The proposed ADU would add 4 rooms, bringing the total to 13. This would be denied on the grounds of "insufficient leaching capacity" since the Title 5 formula indicates a 6 bedroom system is required; a difference of 2 bedrooms.
2. A house has a 4 bedroom septic system and 8 total rooms. The family wishes to build an ADU above the garage that has a single open area with bedroom, living, and kitchen areas. The proposed ADU adds 3 rooms, bringing the total to 11. There are 4 bedrooms labeled as such between both the main home and ADU. This may be granted a deed restriction since the Title 5 formula indicates a 5 bedroom system is required; a difference of 1 bedroom.