

ALLEGANY COUNTY
DEPARTMENT OF HEALTH

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To: All Real Estate Agents/Attorneys
From: Allegany County Department of Health
Subj: Residential Property Transfers within Allegany County, NY

This letter updates and corrects a similar letter recently distributed by this office as related to the sanitary survey rules/regulations, and provides general information about when to have surveys conducted, and when they may be exempt under Article III of the Allegany County Sanitary Code (ACSC). A copy of the Code may be acquired at www.alleganyco.com > Health Department > Environmental Health > Sanitary Code.

Sanitary surveys are required under the code in all residential property transfers except for:

- 1.3 ...”excluding temporary or seasonal dwellings which are occupied for less than (60) days in any calendar year.”
- 2.1 Transfers of vacant land, not improved or utilized for human occupancy or dwelling.
- 2.2 Transfers in foreclosure actions and deeds given in lieu of foreclosure.
- 2.3 Transfers in with a partition action under Article 9 of Real Property Actions and Proceedings Law.
- 2.4 Transfers pursuant to Article 11 of the United States Code.
- 2.5 Transfers of property to any property owner’s spouse, children, mother, father, sister, or brother
- 2.6 Transfers of properties acquired by a governmental assessing unit as the result of tax enforcement proceedings.
- 2.7 Transfers of an interest in property by land contract.
- 2.8 Transfer of property serviced by a municipal water and municipal sewer system

Please note there is no exemption for residential properties being sold “as is” or through “cash only” deals. These transactions still require a sanitary survey to be conducted. The sanitary survey, per ACSC Article III, Section 1.1, shall be valid for a period of six months from the date the inspection is completed. If the property does not sell within that six-month period, regardless of occupancy, the sanitary survey will need to be re-conducted and the fee paid, if the property is still for sale, or put back up for sale if it had been taken off the market..

The sanitary survey application must be filled out entirely or it may be returned. Please list everyone who should receive a copy of the report. Please remind clients that in order to conduct the sanitary survey the septic tank will need to be exposed, with all septic tank lids fully uncovered so that the inside of the tank can be observed from each lid location. In addition, the residence must be occupied for a minimum of 30 consecutive days prior to the survey date. If the owner moves out and the residence is vacant for a period greater than or equal to five (5) days, the property is considered vacant, and the sanitary survey will not be conducted until the residence is occupied for the required 30 consecutive days. Please note that periodic “visits” to the property to run water, flush toilets, and wash dishes and clothes does NOT constitute full time occupancy, and a sanitary survey will not be done under such a scenario.

A satisfactory water sample analyzed for total coliform and *E. coli* bacteria is a part of the sanitary survey if the property for sale has its own water supply (i.e., is not connected to a municipal or community water system). The sanitary survey report will no longer be released until all survey results, including all necessary water sample results, are received and are satisfactory. An exception to this policy may occur if an escrow account is being held for septic/water system repairs and the seller is working on bringing the system into compliance. Under these terms, the report may be released. However, this decision will be left up to the discretion of the inspector. Please remind clients to apply for the sanitary survey at their earliest convenience as the processing time typically takes a minimum of two weeks (longer if more water sampling is necessary). **Please note that the property in question may be sold but it can't be used for residential purposes until all sanitary survey results are considered satisfactory and are ready to be sent to all interested parties, and filed by this office.** If the septic system is failing, all interested parties will immediately be sent a copy of the report stating such. A permit with the required fee will have to be submitted to begin the process of installing a septic system to replace the failed system. Therefore, this office needs to be notified who will be the responsible party for correcting any deficiencies identified during completion of the survey, whether they apply to the septic system, the water supply, or both. This notification may take the form of a simple letter or a copy of the sales contract identifying who (buyer, seller, or both) is responsible.

In the winter months, when sanitary surveys are not conducted due to environmental conditions, a sanitary survey application for a residential property transfer (unless it meets one of the exemption criteria) must still be completed and provided to this office with the survey fee paid up-front. Upon receipt of the survey application and fee, a letter will be sent by this office to all interested parties indicating that the sanitary survey will be completed when weather and occupancy conditions have been met. **The sale of the property may proceed, unimpeded.** As part of the sale, this office must be notified as to which party to the sale we should contact to schedule the sanitary survey, once we have started doing them again. This notification to us should be in the form of a letter which includes the name of the responsible party and their contact information. The letter must also include information as to which party to the sale (seller, buyer, or both) is responsible for any repairs to the septic or water systems, if the survey results turn out to be unsatisfactory. In addition, if the responsible party or parties fail to provide this office with this required information, the sanitary survey will not be conducted, the application fee will not be refunded to the payee, and all responsible parties will be in found in violation of the Allegany County Sanitary Code and will be subject to enforcement action including fines of up to \$2,000.00 apiece.

If you have any questions about the contents of this letter, please contact Tyler Shaw, Public Health Technician, at 585-268-9266.

Very truly yours,



Thomas E. Hull, M.S.
Deputy Public Health Director

xc: ACDOH/Environmental Health Staff
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