

August 27, 2002

Town of Effingham

**HEALTH ORDINANCE TO REGULATE SUBSURFACE
DISPOSAL SYSTEMS AND ESTABLISH LOCAL
ENFORCEMENT PROCEDURES**

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ARTICLE 1. AUTHORITY:

This ordinance was recommended by the Health Officer and approved by the Board of Selectmen of Effingham under the authority granted in RSA 147:1, entitled "Local Regulations".

"RSA 147:1,I. The Health Officers of towns may make regulations for the prevention or removal of nuisances and such other regulations relating to the public health as in their judgment the health and safety of the people require, which shall take effect when approved by the selectmen, recorded by the town clerk, and published in some newspaper printed in the town, or when copies thereof have been posted in 2 or more public places in the town."

ARTICLE 2. PURPOSE:

To provide for the prevention or removal of nuisances and to protect the public health and safety of the people of the Town of Effingham.

ARTICLE 3. SUBSURFACE WASTEWATER DISPOSAL SYSTEMS:

SECTION 3.01 - APPLICABILITY:

No person shall construct, erect, place or alter any building, structure or dwelling from which sewage or other waste will discharge or construct a sewage or waste disposal system within the town of Effingham without prior approval of the plans and specifications of the sewage or waste disposal system and without any waivers of the applicable regulations by the State of New Hampshire Department of Environmental Services.

A dwelling constructed, erected, placed or altered not supplied with water shall have a sewage or waste disposal system approved by the New Hampshire Department of Environmental Services and in accordance with Article 3, Section 3.03 of this ordinance.

"Dwelling" shall mean any building, structure, trailer, mobile-home, manufactured housing or camp or part thereof, used and occupied for human habitation or intended to be so used and includes any appurtenances belonging thereto or usually enjoyed therewith.

This article shall apply to all subsurface wastewater disposal systems located within the Town of Effingham.

**SECTION 3.02 - LOCAL REVIEW OF APPLICATIONS FOR APPROVAL OF
 SUBSURFACE WATERWATER DISPOSAL SYSTEMS REQUIRED:**

A copy of the State approved plan for the construction of new or the replacement of existing subsurface wastewater disposal systems shall be submitted to the Health Officer for review and approval. This local approval process is in addition to application for state approval in accordance with administrative rules contained in Chapter Env-Ws 1000. Where the requirements of the state and local regulations differ, the more stringent shall govern.

SECTION 3.03 - Alternative Disposal Systems:

Shall only be permitted as part of a DES approved subsurface wastewater disposal system in compliance with Chapter Env-Ws 1000.

New privies: Shall not be permitted.

Existing privies and gray water systems are subject to Article 3, Section 3.06

Portable Toilets provided by a rental company are not permitted as an alternative to an approved subsurface wastewater disposal system.

Portable Toilets shall only be permitted when an existing septic system is in failure and the property owner is actually engaged in repair of the system in accordance with this ordinance and Chapter Env-Ws. 1000.

To obtain a permit from the Board of Selectmen for the temporary use of a portable toilet when a system is in failure the following written information shall be provided:

1. Property owners name and address
2. Tax Map and Lot #
3. Name of Septic Designer
4. Nature of Failure
5. A copy of the rental and service contract and pumping schedule.

This Temporary Permit will be issued in writing by the board and shall be valid for 90 days and may be renewed by the board by 30-day increments but not to exceed an aggregate total of 180 days.

Portable Toilets when used temporarily for special events or functions or temporarily at construction sites and when they do not constitute a nuisance are not affected by this ordinance.

**SECTION 3.04 - INSPECTION REQUIRED FOR CONSTRUCTION OF
 NEW AND REPLACEMENT SUBSURFACE WASTEWATER
 DISPOSAL SYSTEMS:**

All new and replacement subsurface wastewater disposal system construction shall be inspected by the Department of Environmental Services according to Chapter Env-Ws 1000, prior to local approval, to assure that the system meets the requirements of this Article and Env-Ws 1000.

SECTION 3.05 - PERIODIC INSPECTION AND MAINTENANCE REQUIRED:

(a) INSPECTION AND PUMPING:

All subsurface wastewater disposal systems shall be inspected by the owner, at least once annually. If, upon inspection, the owner observes that the tank is one third full of solids or more, s/he is required to have the tank pumped.

(b) DISPOSAL OF GREASE AND BULKY WASTE:

To prevent obstruction of the distribution lines and leachfield, grease and bulky wastes shall not be flushed or otherwise introduced into the subsurface wastewater disposal system.

(c) DISPOSAL OF TOXIC AND/OR HAZARDOUS MATERIALS:

Toxic and/or hazardous materials shall not be flushed or otherwise introduced into the subsurface wastewater disposal system.

(d) PROTECTION OF DISTRIBUTION LINES AND LEACHFIELDS:

To prevent damage to the distribution lines and leachfield, vehicles, livestock and other heavy objects shall not be allowed on the leachfield.

**(e) INSPECTION REQUIRED WHEN INDICATORS OF FAILURE ARE
 OBSERVED:**

If wet areas appear on the ground surface above the distribution lines or leachfield or if disagreeable odors occur, the system shall be inspected for the source of these problems and action shall be taken to correct the source of the problem.

(f) AUTHORITY TO REQUIRE CORRECTIVE ACTION:

The Health Officer shall have the authority to require the owner of any wastewater disposal system to perform any maintenance or other corrective action s/he determines is necessary, within a reasonable time frame.

SECTION 3.06 - REQUIREMENTS FOR EXPANSION OF EXISTING USE,
 INCLUDING CONVERSION FROM SEASONAL USE:

(a) CURRENT STANDARDS FOR SUBSURFACE WASTEWATER DISPOSAL SYSTEMS
REQUIRED FOR EXPANSION OF EXISTING USE, INCLUDING CONVERSION
FROM SEASONAL USE:

Existing subsurface wastewater disposal systems shall either:

- meet the current requirements of this Article, or
- the owner shall submit to the Health Officer an inspection report, prepared by a designer, licensed in the state of New Hampshire, demonstrating that the lot(s) can support a wastewater disposal system that meets the requirements of this Article.

(b) INSPECTION REQUIRED FOR EXPANSION OF EXISTING USE, INCLUDING
CONVERSION FROM SEASONAL USE:

Whenever an existing developed property is proposed for expansion of existing use, including conversion from seasonal use to a more permanent form of occupancy, the owner shall have the subsurface wastewater disposal system inspected by a designer, licensed in the state of New Hampshire.

(c) INSPECTION REPORT REQUIRED FOR EXPANSION OF EXISTING USE,
INCLUDING CONVERSION FROM SEASONAL USE:

The licensed designer shall make an inspection report to the Health Officer, to include: the lot dimensions; a detailed diagram showing the type, extent and location of the existing subsurface disposal system; loading calculations; soils information; and a statement relative to the adequacy of the system for its intended and proposed use.

(d) UPGRADE OF EXISTING SUBSURFACE DISPOSAL SYSTEM REQUIRED:

If an inspection report for expansion or conversion of a subsurface disposal system indicates that an existing system is not adequate for its intended and proposed use, the Health Officer shall have the authority to require that the owner install a replacement system that meets current standards.

ARTICLE 4. ENFORCEMENT

SECTION 4.01 - RESPONSIBILITY:

The Health Officer of the Town of shall be responsible for enforcement of the provisions of this ordinance.

SECTION 4.02 - AUTHORITY TO REMOVE NUISANCES:

In the event that the owner of a subsurface wastewater disposal systems fails to comply with a removal order issued under Article Section 4, 4.04 of this ordinance within the specified time period, the Health Officer shall have the authority to cause the nuisance involved with the violation to be removed or destroyed.

SECTION 4.03 - WRITTEN WARNING OF VIOLATION:

(a) Written Warning:

A written warning of violation shall be issued to the owner of a subsurface wastewater disposal system by the Health Officer if s/he determines that it is in violation of any of the requirements of this ordinance and that the violation is not an immediate threat to public health and safety.

(b) The written warning shall:

Specify the actions or conditions which violate the requirements of this ordinance;

Identify what needs to be done to correct the violation(s); and

Specify a reasonable time frame within which the violation shall be corrected.

(c) Copies of Written Warning

One copy of the written warning shall be provided to the owner of the subsurface wastewater disposal system and one shall be kept in the official records of the Health Officer.

SECTION 4.04 - REMOVAL ORDER:

(a) Removal Order

A removal order shall be issued to the owner of a subsurface wastewater disposal system by the Health Officer:

If the system is found to violate requirements of this ordinance and an immediate threat to public health and safety exists, in the opinion of the Health Officer; or

If a violation is not corrected within the time frame specified in a written warning issued by the Health Officer.

(b) The removal order shall:

Specify the actions or conditions which violate the requirements of this ordinance;

Identify what needs to be done to correct the violation(s); and

Specify the time frame within which the violation shall be corrected, based on the degree of threat to public health and safety.

(c) Copies of Removal Order

One copy of the removal order shall be provided to the owner of the subsurface wastewater disposal system and one shall be kept in the official records of the Health Officer.

SECTION 4.05 - AUTHORITY TO COLLECT NUISANCE ABATEMENT COSTS:

In the event that the owner of a subsurface wastewater disposal system fails to comply with a removal order issued under Section 4.04 of this ordinance within the specified time period, the Health Officer shall have the authority to commence an action for collection of nuisance abatement costs in accordance with RSA 147:7-b.

ARTICLE 5. OTHER REGULATIONS:

When the provisions herein specified conflict with those of other ordinances or regulations, the most stringent requirements shall apply.

ARTICLE 6. SEVERABILITY:

In the event that any part or provision of this ordinance is found to be invalid, this shall not have the affect of invalidating other provisions of the ordinance.

ARTICLE 7. DEFINITIONS:

Alternative Disposal Systems:

Systems that may include composting toilets, incinerating toilets, holding tanks or gray water systems.

Building:

Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Distribution Lines and Leachfields:

Distribution lines means the distribution lines associated with subsurface wastewater disposal systems and leachfields.

Leachfields means a shallow sewage disposal area, usually about 2 feet deep, designed for the final disposal of a septic tank or equivalent effluent in the underlying soil, excluding chambered systems as defined by Env-Ws 1002.04.

Expansion of Existing Use:

Expansion of existing use means any increase in the load of a subsurface wastewater disposal system either by expanding a structure or occupying a structure on a full time basis as defined in Env-Ws 1002.14.

Full Time Occupancy:

Full time occupancy, as defined in Env-Ws 1002.14, means occupancy of a structure as a primary domicile or for a period of nine consecutive months or more.

Grease and Bulky Waste:

Grease means any non-water soluble material. Bulky waste means any non-pulverized food waste or any other solid matter.

Health Officer:

The Board of Selectmen or their appointed agent

Definitions continued,

Indicators of Failure:

Indicators of failure means wet areas above the distribution lines, leachfield or septic tank or the presence of disagreeable odors.

Structure:

Anything constructed or erected in a fixed location on the ground or attached to something having a fixed location on the ground.

Subsurface Wastewater Disposal System:

Subsurface wastewater disposal system means any sewage disposal or treatment system, other than municipally owned and operated systems, which receives either sewage or other wastes or both.

Toxic and Hazardous Materials:

Toxic and hazardous materials means any materials and/or substances that are regulated by 40 CFR 302.

ARTICLE 8. CERTIFICATION OF ADOPTION:

A. We, the undersigned do hereby attest that this health ordinance was adopted by a majority vote of the Effingham Board of Selectmen at their duly noticed public meeting on:

date 9/9/02

Chairman, Board of Selectmen

Chairman, Board of Se

Selectman

Marilyn Maggiano
Selectman
William Palmer

B. This health ordinance was recorded with the Effingham Town Clerk on:

date 9-10-02

Town Clerk Andrea S. Hubbard

C. A summary of this health ordinance was published in

Carroll County Independent on
9/18/02, with a notice of where the ordinance was posted in Town.

D. This health ordinance was posted at Effingham Town Hall and Effingham Post Office as of 9/10/02

E. Effective Date: 9/10/07

F. In accordance with RSA 147:1, III, a copy of this health ordinance was forwarded to the Division of Public Health Services in the Department of Health and Human Services by the Town Clerk on / /