

ORDINANCE

TOWN OF MOULTONBOROUGH, NEW HAMPSHIRE

An Ordinance Relative to Sewage Disposal System

The Selectmen and health officer of the Town of Moultonborough, pursuant to Revised Statutes Annotated 147:1 (I), judge that the health and safety of the people of the Town require that the construction, use, repair and replacement of individual sewage disposal systems be regulated by an ordinance enforceable by Town authorities governing such activities.

Pursuant to RSA 485-A:42, the New Hampshire division of Water Supply and Pollution Control has certified the local officials of the Town of Moultonborough with authority and power to exercise concurrent jurisdiction in the enforcement of Chapter 485-A, and it is the intent, in part, of this Ordinance to facilitate the exercise of that jurisdiction.

The purpose of this Ordinance is to promote the general health and safety of the people in the Town, to provide for the prevention and removal of nuisances, to prevent pollution of the environment, and to promote compliance with the laws of the State of New Hampshire.

Section 16.1 All terms used shall have their ordinary meaning, unless modified by the following. As used in this Ordinance, the following terms shall have the following specific meanings:

“New Individual Sewage Disposal System” shall mean any system placed on a lot or in a specific area on a lot which has not previously been used or occupied by a sewage disposal system. In addition, this term shall include any project for which application must be made, and approval received from the New Hampshire Water Supply and Pollution Control Commission, including the enlargement or modification of an existing system.

“Individual sewage disposal system” means any sewage disposal or treatment system, other than a municipally-owned and operated system, which receives either sewage or other wastes, or both, including but not limited to: septic tank leach field systems, privies or dry pit toilets, incinerator type toilets (gas-operated, electric fossil-fueled or any combination thereof), and holding tank systems.

“Person” means any municipality, governmental subdivision, public or private cooperation, individual, partnership, or other entity.

“Sewage” means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

Section 16.2 General Provisions:

1. This Ordinance shall apply to the owner, lessee, or occupant of land, and their agents, and to any other person, whether individual, corporate, or otherwise, who possesses or claims an interest in real property in the Town of Moultonborough which may contain or receive the benefit of an individual sewage disposal system.
2. This Ordinance is not intended to limit in any way the power or authority granted by law to the Town Health Officer, the Selectmen, or to the Town Board of Health.
3. References in the male gender shall be read to include and apply to the female gender, and vice versa.
4. The invalidity of any specific provision of this Ordinance shall not affect the validity of the remainder of the Ordinance.

Section 16.3 New Individual Sewage Disposal Systems.

State approval is required for all new sewage disposal systems. An applicant who proposes to construct a new individual sewage disposal system shall notify the Board of Selectmen of his intentions, and provide the Selectmen with information as follows:

1. If state approval for the project is required, the applicant shall provide to the Selectmen four copies of all documents required below. After review and approval by the Moultonborough Health Officer, the Health Officer will forward three copies of the documents to the Executive Director of the Water Supply and Pollution Control Commission. Reference is specifically made "Subdivision and Individual Sewage Disposal System Design Rules," published 1983, as amended from time to time, and PART WS 1002 New Hampshire Code of Administrative Rules in particular.
2. The applicant shall provide the following documents and information:
 - (a) name, address, business, and telephone number (s) of applicant and, if applicant is not the owner, a letter of authorization signed by all owners of record
 - (b) name, address and telephone number of owner of lot;
 - (c) lot and subdivision or tax map numbers of property on which project is proposed;

- (d) statement whether the lot is part of an existing state approved subdivision, and if it is not, a statement why no application is being made to the state for approval. If the lot is exempt from state subdivision approval because all lots are larger than 5 acres, this shall be clearly stated on the application.
- (e) all lot dimensions and the distance to and location of existing and proposed buildings, wells, and waste disposal systems;
- (f) a description of the adjoining lot if the proposed system is closer than 75 feet to a boundary, a well, or a neighbor's foundation;
- (g) location of property on a copy of the appropriate Town Tax Map, in sufficient detail so that an inspector may visit the site;
- (h) distance and location of nearest surface water in relation to disposal system;
- (i) the source of drinking water and location of proposed and existing drinking water supply pipes indicated;
- (j) soil data including percolation test data, test pit log and soil survey data;
- (k) number of bedrooms or estimated sewage load in gallons per day;
- (l) ground surface elevations for the lot showing the slope of the land at 2 foot contour intervals, to at least 75 feet from building and system. Sufficient spot elevations are required to verify "level lots." Original and proposed contours shall be shown. Contours shall be referenced to a benchmark located near the proposed system. This topographical information shall appear on the 1:20 scale plan.
- (m) volume (size in gallons) existing or proposed of septic tank, material of construction (concrete, fiber glass, plastic, or other), placement of baffles and provision for clean out;
- (n) scale plan of leaching system with construction details and dimensions on the 1:20 scale drawings.
- (o) proof of executed easements if leach field is located on property other than the owner's.
- (p) sill elevations, invert elevations at building exit, inlet and outlet from septic tank, inlet and outlet from distribution box, invert of

leach lines and bottom elevation of leaching area. Inverts shall be referenced to benchmark.

- (q) make, type, and capacity and model of sewage pump, pump well, discharge line, siphons, siphon chambers, when used;
- (r) number of outlets and name of manufacturer of distribution box;
- (s) supply sufficient test pit information to verify the nature of the receiving layer, both at the leaching site and down-slope from the proposed system;
- (t) show all bedrock exposures within 100 feet of the proposed systems;
- (u) show all the surface water and drinking water supplies within 200 feet of the proposed system;
- (v) submit, if requested by the health officer, a written report explaining how the proposal will overcome the site limitations so that the system will operate in such a manner as not to fail prematurely or contaminate surface water or subsurface water supplies.

Section 16.4 Repair, Replacement, or Modification of Existing System other than a New Individual Sewage Disposal System.

This section shall govern in all circumstances where it is proposed to repair, replace or modify an existing system “other than a system classified under this Ordinance as a new individual sewage disposal system.

A. Obtaining a permit involves the following considerations:

1. A fee must be paid along with the application. The fee is in the amount of forty-five dollars (\$45.00).
2. Local approval is authorized only where the septic tank being repaired or replaced is the same size or larger than the existing tank.
3. Leaching portions of existing systems which are seventy-five (75) feet or more from either surface waters or water supply wells may be repaired or replaced in the same location and same size. In all other cases, plans for repair or replacement must be submitted for consideration and approval according to Section 16.3, above.

4. A report documenting soils conditions written by a licensed designer must be provided with the application for permit. A test pit, developed in accordance with part Env-W's 1006, shall be dug immediately adjacent to the leaching area to determine the seasonal high water table. The test pit need only be dug to a level two feet below the bottom of the leaching portion of the disposal system under repair or replacement.

B. The applicant for a permit must also provide such additional information as the health officer may reasonably require, including, but not limited to:

1. name, address, business and telephone number (s) of the applicant;
2. name, address, business and home telephone number (s) of the owner of the property, if different than the applicant, and a letter of authorization signed by all owners of record;
3. location of the property by tax map number;
4. location of existing system;
5. age of existing system if known;
6. designer and builder of existing system, if known, and plans of existing system if available;
7. statement of the purpose of or need for the repair, replacement, or modification of the existing system;
8. description of the work to be performed, including the name and address of the contractor and name and address of the system designer, if different than the applicant, and equipment to be used;
9. a description of the adjoining lot if the proposed system is closer than 75 feet to a boundary, a well, or a neighbor's foundation;
10. Estimate of the time required for completion of the project;
11. Statement of any anticipated impact on abutters or other property owners or occupants;
12. statement that the Selectmen, the health officer, or their agents may inspect the property at any time before, during, or after the project.

Section 16.5 Inspection, Investigation, and Approval or Disapproval

Upon receipt of the information required by this Ordinance, the health officer shall conduct such investigation as he deems appropriate to determine the impact of the project on health, safety, water supplies, or the environment, including conducting an inspection of the property.

Upon completion of his investigation, the health officer shall approve the application, disapprove the application, or, in his discretion, amend the application with the consent of the applicant, or, in his discretion, amend the application with the consent of the applicant, or, in his discretion, refer the application to the Selectmen, who shall take such action as may be necessary.

The health officer has the right to disapprove any application that does not meet the standards set forth in the section entitled “New Individual Disposal Systems” or “Repair, Replacement, or Modification...” Or, if any aspect of the proposed design is demonstrated to be contrary to the stated purpose of this ordinance to promote the general health and safety of the people of the town and to prevent pollution of the environment.

Upon approval of the application, the approving authority shall issue a permit approving construction of the project. The applicant shall notify the health officer when the project is prepared for final inspection, and, after final inspection, the health officer shall issue an approval for operation.

Section 16.6 Replacement of Demolished or Burned Buildings

Replacement of buildings that have been demolished or burned shall be considered new construction and shall require submission of an application, including plans and specifications, as presented in Section 16.3 above, unless a valid construction and operating approval exists and the total sewage load will not be increased.

Section 16.7 Enforcement

1. The Selectmen hereby appoint the Town health officer as their agent for all purposes in investigating, inspecting, and issuing notices in cases arising under this Ordinance.
2. In addition to his existing statutory powers, the health officer shall have the discretion to initiate enforcement proceedings at law for the collection of fines on behalf of the Town for violation of this Ordinance.
3. The health officer, subject to review by the Selectmen, shall have the power to establish a fee for application for site review under this Ordinance, and to collect said fee, if necessary, by an action at law.

4. The health officer shall have the power, pursuant to RSA 147:7, to collect expenses and fees for the removal or destruction of nuisances, and to collect such amounts by an action at law.
5. Equity proceedings, if necessary, may be commenced only upon notice to and consent of the Selectmen, who retain the power to control such proceedings on behalf of the Town.

Section 16.8 Violations And Penalties

It shall be unlawful for:

1. any person to construct, use, repair, replace, or modify an individual sewage disposal system without a permit for the project.
2. any person, while applying for a permit under this Ordinance, to misrepresent, omit, or falsify a material fact regarding the proposal or the land.
3. any person to refuse to allow the health officer, Selectmen, or their agents to inspect the location of the existing or proposed individual sewage disposal system, or to obstruct or mislead any investigation commenced under authority of RSA 147, -584-A, this Ordinance, or other state or local regulations.

Section 16.9 A violation of any provision of this ordinance shall constitute a violation, punishable by a fine of up to \$50.00 per day for continuing violations. A continuing violation shall be deemed to commence upon the day following the receipt of notice of the existence of the violation. This penalty may be in addition to any penalties imposed for violation of state law or regulation.

This Ordinance and Regulation shall take effect when approved by the Selectmen, recorded by the Town Clerk, and published or posted in accordance with law.

This Ordinance received review, revision and update. The Ordinance, as revised, received acceptance and enactment on September 21, 2006.

Karel A. Crawford, Chairman
Edward J. Charest
Ernest E. Davis, Jr.
James F. Gray
Joel R. Mudgett
BOARD OF SELECTMEN

Ratified, as adopted and previously amended, this 14th day of March, 2015 by vote of the Town Meeting under Article 9.

A True Copy, attest,

Barbara Wakefield
Barbara Wakefield,
Town Clerk

This 17th day of March, 2015