

LEGAL NOTICE – TOWN OF ESSEX  
WASTEWATER MANAGEMENT ORDINANCE

09-02

At a Town Meeting on Wednesday, March 18, 2009, the voters of the Town of Essex adopted the following Ordinance:

**Section 1 Purpose of Ordinance**

The purpose of this Ordinance is to:

- (a) Protect the public health and welfare of the town through the prevention of public health nuisances and environmental degradation that may have a detrimental impact on the quality of the town's groundwater and surface water resources.
- (b) Affirm and declare that a policy of wastewater management should be applied to all areas of the Town of Essex where on-site treatment and disposal of wastewater is deemed feasible.
- (c) Define wastewater management practices and generate inspection data. Information so generated may be used to develop and modify a wastewater management plan.
- (d) Regulate and control the design, construction, operation and maintenance of sewage disposal systems of 5000 gallons per day or less in the town, and require periodic inspection and maintenance of these systems.
- (e) Educate property owners about proper care and maintenance procedures for sewage disposal systems.

**Section 2 Definitions**

If not specifically defined below, all definitions shall be identical to those found in the Public Health Code of the State of Connecticut, Sections 19-13-B100a, 19-13-B103, including the Technical Standards, and 19-13-B104, as regularly revised.

For the purpose of this Ordinance, the following words and terms shall have the meaning hereto assigned. The word "shall" is always mandatory:

**AUTHORITY** The Water Pollution Control Authority for the Town of Essex, Connecticut

**CESSPOOL** An on-site structure that receives domestic sewage from the building served and that provides drainage directly to the soil.

**DIRECTOR** The Director of Health of the Town of Essex, or his/her authorized agent.

**DWELLING** A building used solely as a residence.

**FAILED SYSTEM** A sewage disposal system where sewage is allowed to discharge or flow from it onto the ground surface, into an open watercourse, or which system otherwise causes health hazards or nuisance conditions.

**MALFUNCTIONING SYSTEM** A sewage disposal system where any of the following conditions are detected at pumpout or inspection: backflow from leaching system into septic tank, wastewater overflowing the outlet baffle, back-up into the building sewer or riser, or other evidence that the system is not performing as designed.

**SEWAGE DISPOSAL SYSTEM** A subsurface sewage disposal system, cesspool or other form of sewage disposal which discharges to the property served.

**PERMIT TO DISCHARGE** a permit issued by the Director authorizing the discharge of a stated amount of wastewater to a sewage disposal system for a stated time period.

**PROPERTY OWNERS** Owners of record of real property situated within the Town of Essex.

**PUMPOUT** The removal of sewage from a sewage disposal system by a septic cleaner or installer.

### **Section 3 Adoption of Connecticut Public Health Code**

The provisions of the Connecticut Public Health Code, specifically including Sections 19-13-B100a, 19-13-B103, and 19-13-B104 of the Connecticut Department of Public Health, Public Health Code Regulations and the Technical Standards for Subsurface Sewage Disposal systems, as the same may hereafter amended or adopted, are hereby incorporated by reference into this Ordinance and made a part hereof, and are hereinafter referred to in this Ordinance as the Public Health Code.

### **Section 4 Authorization**

- (a) Pursuant to CGS 19a-207, this Ordinance has been reviewed and approved by the Connecticut Department of Public Health with respect to matters under its jurisdiction for consistency with the Public Health Code prior to its presentation for Town Meeting approval.
- (b) The Water Pollution Control Authority of the Town of Essex has voted to approve this Ordinance prior to its presentation for Town Meeting approval.

### **Section 5 Regulations and Fees**

In accordance with CGS 19a-207, the Town of Essex hereby authorizes the Authority, with the concurrence of the Director, to adopt, and amend as needed, reasonable regulations and fee schedules for the effective implementation and enforcement of this Ordinance; provided no such rule or regulation shall be inconsistent with the Public Health Code. Such rules and regulations shall only be effective upon review and approval by the Connecticut Department of Public Health with respect to matters under its jurisdiction for consistency with the Public Health Code. Such fee schedules shall only be effective upon review and approval by the Board of Selectmen.

## **Section 6      Design, Construction and Operation of Sewage Disposal Systems**

- (a) All Sewage Disposal Systems: All new sewage disposal systems, and improvements to existing sewage disposal systems, in the Town of Essex, shall be designed and constructed in compliance with the Connecticut Public Health Code, and the Ordinances and Special Acts of the Town of Essex, whichever are more restrictive.
- (b) New Construction: Prior to the issuance of a building permit for any new structure requiring a sewage disposal system, there shall be a design of the proposed sewage disposal system prepared by a professional engineer licensed to practice in the State of Connecticut. No building permit shall be issued until such design has been approved by the Director.
- (c) Septic Tanks: All buildings shall be served by a sewage disposal system that includes a non-metal septic tank prior to the leaching structure(s). No metal septic tanks shall be allowed. Property Owners shall replace all metal septic tanks with components or systems approved by the Director of Health on or before January 1, 2014, or at time of property transfer, whichever occurs first.
- (d) Cesspools: No cesspools shall be allowed or other methods of direct discharge to soil, groundwater or surface water. Property owners shall replace all existing cesspools with components or systems approved by the Director of Health on or before January 1, 2018, or at time of property transfer, whichever occurs first.
- (e) Soil Testing: The Director may require that investigation for maximum groundwater level in areas of special concern, or for subdivisions with proposed building lots in areas of special concern, as defined in Section 19-13-B103d(e)(1) of the Public Health Code, be made between February 1 and May 31, or such other times when the groundwater level is determined by the Commission of Public Health to be near its maximum level.
- (f) Right of Entry: The Director shall have the right of entry to any land in the Town of Essex for the purpose of conducting inspections of water supply wells or sewage disposal systems.

## **Section 7      Water Usage**

The Director or the Authority may obtain from any water company providing water service to property owners of the Town, all records necessary to determine the consumption of water by Essex customers of such companies. The Board of Selectmen may approve such contracts and agreements with water companies for the purpose of obtaining access to the above-mentioned records.

## **Section 8      Qualifications of Septic Cleaners and Installers**

Any person engaged in the business of cleaning, pumping, inspecting or installing sewage disposal systems located in the Town of Essex, or disposing of sewage generated in the Town of Essex, shall hold the appropriate license issued by the Connecticut Department of Public Health during the period of performance of any such activities.

## **Section 9      Cleaning, Inspection, and Disposal Requirements**

- (a) All property owners shall have their sewage disposal systems cleaned and inspected at least once every five (5) years commencing on the Effective Date of this Ordinance, unless such time period has been modified pursuant to Section 10(e) below. Such modification shall be so designated on the Permit to Discharge for that property.
- (b) For any pumpout of a sewage disposal system in the Town of Essex, a report shall be sent by the licensed septic cleaner or installer to the Director on forms approved by the Director and the Authority. Such report shall include the size and origin of the load, the date of pumpout, cleaning, inspection or repair, and such other data as required by the Director and the Authority on the approved form. Such report shall be made electronically if so required by the Director.
- (c) The report of a pumpout shall be submitted to the Director within thirty days from the date of such activity.
- (d) A report of a malfunctioning or failed system shall be submitted to the Director within ten days from the date of discovery.
- (e) All sewage removed from a sewage disposal system shall be transported and disposed of in accordance with applicable Public Health Code requirements.

## **Section 10     Permits to Discharge**

- (a) Permits to Discharge shall be issued or renewed by the Director to Property Owners whose sewage disposal systems meet the conditions listed below. Such Permit to Discharge will permit the property owner to discharge a specified number of gallons per day (peak or average) to the sewage disposal system described on the permit, and may include additional restrictions on use of the system or on the use of the property relating to the system.
- (b) Permits to Discharge shall be valid, unless revoked or suspended, for a period not to exceed five years. The Director shall have the authority to decrease the five-year period of a Permit to Discharge if there is evidence that more frequent inspections or pumpouts are necessary to maintain proper function of the system.
- (c) A Permit to Discharge shall be issued or renewed by the Director:
  - 1. Upon the final inspection of a newly constructed sewage disposal system which the Director determines meets all the requirements of this Ordinance, or
  - 2. Upon pumpout, cleaning or inspection of an existing sewage disposal system, provided that no failure or malfunction is detected during the inspection and the required report is submitted to the Director, or
  - 3. Upon repair and final inspection of an existing sewage disposal system which the Director determines meets all the requirements
- (d) A Permit to Discharge may be revoked or suspended due to a malfunction or failure, as confirmed by an inspection by the Director. If a malfunction or failure has been confirmed, a Permit to Discharge shall not be renewed until the Director determines that any and all deficiencies have been corrected in accordance with the applicable sections of this Ordinance.

- (e) The Director shall have the authority to extend the term of an existing Permit to Discharge if the property owner provides proof of limited use of the system sufficient to warrant such extension.
- (f) Permits to Discharge shall continue notwithstanding a change of Property Owner unless otherwise specified on the Permit to Discharge for reasons relating to the proper functioning of the system.
- (g) Permits to Discharge may be issued and a record thereof, together with related reports, may be maintained by the Director in electronic format. Such electronic information will be accessible to the public under the applicable provisions of the Freedom of Information Act.
- (h) Any action or decision of the Director under this Section with respect to a Permit to Discharge resulting in denial, revocation, suspension or additional restrictions beyond the specified gallons per day shall constitute an Order of the Director and be subject to the right of appeal under Section 15 of this Ordinance.

### **Section 11 Implementation of Wastewater Management Ordinance**

The Director and the Authority shall implement this Ordinance through education and cooperation with residents, commercial establishments and other property owners by such means as the Director and Authority deem appropriate.

### **Section 12 Non Compliance with Wastewater Management Ordinance Requirements**

- (a) The Director is hereby authorized to enforce any order or the Conditions of any Permit to Discharge existing prior to the Effective Date of this Ordinance, under the authority of GCS 19a-207.
- (b) The Director is hereby authorized to order any Property Owner to have his/her sewage disposal system cleaned and inspected if (1) such system has not been cleaned and inspected within the five years prior to the Effective Date of this Ordinance, or (2) there is cause to believe there exists a failure or malfunction of the system. Such order shall be sent by certified mail to the address of the Property Owner as shown on the Town of Essex tax assessment records or to any more current address known to the Director.
- (c) In the case of an order issued pursuant to Section 12(b) (2) above, upon the failure, neglect, or refusal of any Property Owner to have his/her system inspected within the time period specified in the order, or if the order is returned to the sender as undeliverable, the Director is hereby authorized to inspect the system at the Property Owner's expense by employing the services of a licensed person engaged in the business of cleaning or installing on-site systems. The Director is further authorized to pay the costs of such cleaning, inspection, and to demand reimbursement for such costs from the Property Owner. Such demand will be sent by certified mail.
- (d) If the inspection confirms the existence of a failure or malfunction of the system, the Director is hereby authorized to order any Property Owner to have his/her sewage disposal system repaired in accordance with Connecticut Public Health Code. Such order shall be sent by certified mail to the address of the Property

Owner as shown on the Town of Essex tax assessment records or to any more current address known to the Director.

- (e) In the case of an order issued pursuant to Section 12(d) above, upon the failure, neglect, or refusal of any Property Owner to have his/her system repaired within the time period specified in the order, or if the order is returned to the sender as undeliverable, the Director is hereby authorized to repair the system at the Property Owner's expense by employing the services of a licensed person engaged in the business of cleaning and installing on-site systems. The Director is further authorized to pay the costs of such repair, and to demand reimbursement for such costs from the Property Owner. Such demand will be sent by certified mail.
- (f) In the event of the failure, neglect or refusal of an owner who has received an order issued pursuant to this Ordinance to comply with the conditions of said order, or if the order is returned to the sender as undeliverable, the Director is hereby authorized to impose and collect penalties in accordance with the Connecticut General Statutes and this Ordinance.
- (g) The penalty for violation of this Ordinance and any Orders issued hereunder shall be \$100. For purposes of calculating any such penalty, each day following the expiration of the time period specified in the Director's order may be deemed a separate violation of said order and of this Ordinance until the day upon which the owner takes the action required in such order. The Director may collect all penalties incurred under this section by making demand upon owners.
- (h) The Director is hereby authorized to bring a civil action in Superior Court to compel compliance with any order issued under this Ordinance or to collect penalties imposed hereunder or to collect unreimbursed costs incurred under Section 12(c) and Section 12(e) of this Ordinance.
- (i) The Director may exercise the remedies available to him under CGS 19a-206.
- (j) The remedies provided to the Director under this Ordinance shall be cumulative.

### **Section 13 Wastewater Management Program**

The Director and the Authority shall develop, maintain, and amend as required a program to monitor construction and maintenance of all sewage disposal systems in Essex. Such plan shall provide for maintenance of pumpout records for all sewage disposal systems in Essex, and other requirements of the Public health Code for Wastewater Management Programs.

### **Section 14 Replacement of Other Ordinances**

This Ordinance replaces, and makes null and void the following ordinances of the Town of Essex Connecticut – SANITARY CODE (as adopted March 23, 1960); AN ORDINANCE GOVERNING INDIVIDUAL ON-SITE SEWAGE DISPOSAL SYSTEMS AND GROUND WATER SUPPLY SYSTEMS (as adopted September 18, 1967); 1969 SUPPLEMENT TO ORDINANCES AND SPECIAL ACTS (dated February 21, 1968), and WASTEWATER MANAGEMENT ORDINANCE (as adopted October 13, 1998). Nothing herein contained, however, shall be deemed to invalidate any Permits or Orders issued under said Ordinances except as specifically set forth herein.

**Section 15 Right of Appeal**

Any person aggrieved by an Order of the Director under this Ordinance may appeal to the Commissioner of Public Health pursuant to Connecticut General Statutes 19a-229 and the Commissioner may vacate, modify or affirm the Order.

**Section 16 Severability**

If any provision of this Ordinance is held invalid for any reason, such invalidity shall not affect the other provisions of this Ordinance that can be given effect without the invalid provision.

**Section 17 Effective Date**

This Ordinance shall become effective fifteen (15) days after publication thereof in a newspaper having a circulation in the Town of Essex.

Adopted at a Special Town Meeting held March 18, 2009  
Published in the Hartford Courant – March 24, 2009