

ON-SITE SEWAGE SYSTEM ORDINANCE

FOR THE TOWN OF FAIR HAVEN RELATING TO INDIVIDUAL RESIDENTIAL SEWAGE DISPOSAL SYSTEMS (to be known as the "On-Site Sewage System Ordinance")

SECTION I. PURPOSE

This ordinance is adopted under V.S.A. Title 24, Chapter 102 (On-Site Sewage Systems). The purpose of this ordinance is to:

- A. Regulate the design, construction, replacement, modification, operation, and maintenance of wastewater disposal systems in order to protect human health and the environment, including potable water supplies, surface water and groundwater;
- B. Prevent the creation of health hazards or unsanitary conditions;
- C. Ensure adequate effluent dispersal and drainage for the proper functioning of wastewater systems;
- D. Ensure that wastewater systems are designed, constructed, operated and maintained in a manner that supports the intended use of the systems with respect to reliability, incremental costs, and sustainability;
- E. Ensure that owners of wastewater systems permitted under the Rules have knowledge of their systems' design, the operation and maintenance requirements, and their responsibilities for the satisfactory functioning of the systems;
- F. Allow the use of alternative, innovative, and experimental technologies for the treatment and disposal of wastewater in the appropriate circumstances;
- G. Protect the investment of homeowners through a flexible remediation process for failed wastewater systems;
- H. Increase reliance on and the accountability of the private sector for the design and installation of wastewater systems;
- I. Ensure that wastewater systems do not contaminate a potable water supply so that it is rendered not potable;
- J. Ensure that wastewater not be exposed to the open air, not pool on the surface of the ground, or back up into a building or structure, unless the approved design requires it to do otherwise; and,
- K. Ensure that wastewater systems do not allow direct discharges of wastewater to surface waters.

SECTION II. DEFINITIONS

Applicant - The person who owns the land or has the legal right to utilize the land on which a project is located.

Dwelling - A structure or portion thereof that is used exclusively for human habitation. A single-family dwelling is a single structure containing one (1) dwelling unit. A dwelling unit is any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used by one (1) family (and their resident domestic servants) for its living, sleeping, cooking and eating needs.

Minor Modification - The repair or replacement of a pipe leading from a building or structure to the septic tank, replacement of a septic tank, repair or replacement of a pump and/or associated valves, switches and controls, the repair or replacement of a toilet, or any other repair or replacement that the Septic Compliance Officer, on a case-by-case basis, determines to be a minor repair or replacement.

On-site Wastewater System - means any piping, pumping, treatment or disposal system used for the conveyance and treatment of sanitary waste or used water, including, but not limited to, carriage water, shower and wash water, and process wastewater. This definition does not include any internal piping or plumbing, except for mechanical systems, such as pump stations and storage tanks or toilets, that are located inside a building or structure and that are integral to the operation of a wastewater system. This definition also does not include wastewater systems that are used exclusively for the treatment and disposal of animal manure. For the purposes of this ordinance, "on-site wastewater system" refers to a soil-based disposal system of less than 6,500 gallons per day, or a sewerage connection of any size.

Permit – a written authorization issued and recorded with the Town of Fair Haven.

Person - means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the state of Vermont or any agency, department or subdivision of the state, federal agency, or any other legal or commercial entity.

Septic Compliance Officer – the legally designated authority of the town acting under the authority of this ordinance. The Septic Compliance Officer shall be appointed by the Selectboard.

Vermont Wastewater System and Potable Water Supply Rules, hereafter referred to as the "RULES" – effective August 16, 2002; promulgated by the Vermont Department of Environmental Conservation; these RULES are incorporated into this ordinance by reference.

SECTION III. APPLICABILITY OF ORDINANCE

All on-site wastewater systems shall be built, altered, repaired and used in accordance with this ordinance. This includes, but is not limited to on-site wastewater systems for single and multi-family dwellings, seasonal dwellings, commercial and industrial properties. Any dwelling will require a Disposal System Construction Permit and a Certificate of Occupancy, however projects which have been issued any of the following state permits: Subdivision Approval, Subdivision Permit, Water Supply and Wastewater Disposal Permit, or Mobile Home Park Permit, will not require a Disposal System Construction Permit under this ordinance but will require a Certificate of Occupancy. *Note: Even though a project may not require a Disposal System Construction Permit, the town zoning regulations may require review and approval for site alterations. Please call the town zoning administrator's office to confirm the need for a local zoning permit prior to construction.*

Exceptions:

i. Minor modifications

When a minor modification (see definitions) to an existing system for a single family dwelling is proposed, the Septic Compliance Officer may waive the Disposal System Construction Permit on a case by case basis and will issue a "minor modification letter" for recording in the Town of Fair Haven Land Records. The Septic Compliance Officer may consult a licensed technician or engineer to determine what constitutes a minor modification.

ii. Existing Systems

Existing single-family dwelling or seasonal dwelling on-site wastewater systems in operation at the time of adoption of this ordinance are approved, provided that such systems do not create a health hazard, nuisance or pollute surface or ground water, as determined by the Septic Compliance Officer.

- a. No dwelling shall be altered in any way so as to increase the residential capacity of the structure unless the Septic Compliance Officer determines that the existing on-site wastewater system has adequate capacity or a disposal system construction permit has been issued to increase the capacity of such system.
- b. Existing systems determined to be a health hazard, nuisance or polluting surface or groundwater by the Septic Compliance Officer must be properly closed and its use discontinued at the direction of the Septic Compliance Officer to insure compliance with the Purpose of this ordinance. A disposal system construction permit shall be submitted by the applicant for an on-site wastewater system that is designed and upgraded to meet the standards of this ordinance to the extent possible.
- c. In case of any other applicable regulation, bylaw, ordinance or statute, which differs from this ordinance, the stricter shall apply.

SECTION IV. PERMIT PROCEDURE

A. Disposal System Construction Permit

1. The applicant applying for an on-site wastewater permit shall obtain a Disposal System Construction Permit in conformance with this ordinance and shall submit an application (on forms provided by the Town) for a permit to the Septic Compliance Officer. The Septic Compliance Officer shall act to approve or disapprove a completed application within thirty (30) days of receipt of said application.
2. The application shall contain soil and site information as required by the RULES and disposal systems shall be designed in accordance with the RULES.
 - a) All technical information including soil and site information and disposal system designs shall be prepared by a Vermont Certified Site Technician B or a Vermont Certified Professional Engineer.
 - b) The application shall include the designation and location for a replacement area that complies with the RULES.
3. Easements for off-lot sewage disposal systems must be conveyed to the permittee and recorded in the land records of both the conveyer and the permittee prior to issuance of a construction permit.

B. Certificate of Occupancy

1. The Septic Compliance Officer or his / her designee may inspect any system before it is covered with soil. The Septic Compliance Officer may request to inspect systems at different stages during installation. The town shall receive a minimum of 48 hours notice for a final inspection. A Vermont Certified Site Technician B or Vermont Certified Professional Engineer must inspect the system and provide a final inspection letter to the Septic Compliance Officer. Such report must certify that the system has been installed in substantial compliance with the approved permit. Variations from the approved design and location shall be noted and certified as in compliance with this ordinance in the signed report from the designing technician or engineer.

2. The Septic Compliance Officer shall issue a certificate of occupancy when satisfied with the installed on-site wastewater system. A newly constructed dwelling may not be occupied until the certificate of occupancy has been issued. Existing dwellings that require a replacement system may continue to be occupied provided no health risks are present. However, a certificate of occupancy must be obtained after installation and certification of the system. In cases where the proposed project requires a Zoning Permit, the Zoning Certificate of Occupancy may serve as the certificate of occupancy for the sewage disposal system. Issuance of a Zoning Certificate of Occupancy shall still require a final inspection report from the disposal system designer after inspection by the designer.

C. Application Fees

1. Application fees for permits shall be established by the Selectboard. Fees shall include the cost of recording the permits.
2. The Septic Compliance Officer may require an applicant to pay for the reasonable costs of an independent technical review, by a consultant employed by the Septic Compliance Officer, of an application, or portions thereof, under the following procedures:
 - a) Septic Compliance Officer: Upon receipt of an application, the Septic Compliance Officer may arrange for independent technical review of the application or portions thereof. The Septic Compliance Officer may estimate the reasonable costs of the technical review and then ask the applicant to immediately deposit an estimated amount of funds with the town treasurer in a reserved account specifically for the technical review being initiated by the town. Non-submittal of the requested technical review funds may result in the inability of the septic compliance officer to obtain the necessary information to approve an application.
 - b) In the event a written report is obtained from the technical consultant, the applicant shall forthwith be supplied with a copy.
 - c) The applicant shall pay for the reasonable costs of an independent technical review authorized under this subsection within thirty (30) days of the date of the invoice for the cost thereof, unless a technical review account having sufficient funds to pay the entire balance of the invoice has been previously established with the town treasurer.
 - d) In the event the Town is required to bring legal action to collect the amount specified in the invoice, the applicant shall be responsible for the Town's reasonable attorney's fees, and other costs of collection.
 - e) Notwithstanding anything in Section IV, a certificate of occupancy shall not be issued to the applicant, its successors and assigns, for the land development proposed in the application, or any part, until the invoice issued under this subsection is paid in full.

D. Terms and Conditions of Permits

1. A Disposal System Construction Permit shall become void if the disposal system has not been completed within two (2) years of the date of issuance. Submission of plans older than 2 years shall require certification by Vermont Certified Site Technician B or a Vermont Certified Professional Engineer that there have been no changes or alterations to the site or abutting lands which require revision to the design or relocation of the system previously approved and the wastewater disposal system design remains in compliance with the requirements of this ordinance. Application fees shall be those in place at the time of submission of application.
2. Conditions of construction or use may be placed on the Construction Permit or the Certificate of occupancy as deemed necessary by the Sewage Compliance Office to meet the purposes of this ordinance.
3. All permits run with the land and are binding upon each and subsequent owners.

E. Revocation of Permits

1. Revocation by Selectboard - A Disposal System Construction Permit or Certificate of occupancy may be revoked by the Selectboard for any of the following reasons:
 - a) Violation of a permit condition;
 - b) False or misleading information submitted in support of the permit;
 - c) Untrue or incorrect design or installation certifications and/or design or installation certifications that do not reflect the exercise of reasonable professional judgment submitted in support of the permit;
 - d) Violation or failure to comply with the provisions of this ordinance, the RULES or any conditions on the construction permit or certificate of occupancy;
 - e) A petition to revoke submitted by the permittee.
2. Revocation by Petition
 - a) A written petition for revocation shall be addressed to the Septic Compliance Officer and shall contain the name, address, and telephone number of the petitioner, the signature of the petitioner, identification of the specific provision or rule in question, a statement of the petitioner's interest in the matter and the petitioner's contentions, including the alleged basis for the revocation of the permit; and a statement that a copy of the petition for revocation has been sent by the petitioner to the permittee
 - b) The permit holder shall be notified in writing of a petition for revocation of permit by the Septic Compliance Officer.
 - c) Receipt of the petition shall initiate the revocation procedure. The Selectboard shall hold a public hearing within thirty (30) days of receiving the revocation petition. The Selectboard shall render a decision within fifteen (15) days of the conclusion of the hearing.
 - d) The Selectboard shall give the permit holder and petitioner written notice of revocation of the permit within 72 hours of making such decision. All sewage disposal system work must cease immediately upon notification of revocation of permit.

SECTION V. APPEALS

Any applicant aggrieved by a decision of the Septic Compliance Officer may appeal that decision in writing to the Town of Fair Haven Selectboard within thirty (30) days of such decision. The Town of Fair Haven Selectboard shall hold a public hearing within thirty (30) days of receiving such an appeal and shall render a decision within fifteen (15) days after the close of such hearing. Following a Selectboard's hearing, any such person aggrieved by a decision of the Selectboard may appeal that decision to Superior Court.

SECTION VI. ENFORCEMENT

Violations of this ordinance are civil offenses. A person who neglects or refuses to comply with the provisions of this Ordinance may be fined not more than \$500 for each offense by the Superior Court. Each day that a violation is continued shall constitute a separate offense (24 V.S.A., Section 1974).

Nothing in this Ordinance shall be construed to prevent the local Board of Health or the Health Officer from carrying out their duties as prescribed in 18 V.S.A., Chapter 11.

SECTION VII. ALTERNATIVE SYSTEMS AND PERMITTED DEVIATIONS

Innovative sewage disposal systems, which have an approved Innovative Systems Permit from the Department of Environmental Conservation, may be approved by the Septic Compliance Officer, in accordance with the conditions in the state approval.

Water saving, composting and other special toilets may be considered for approval provided an on-site sewage treatment and disposal system has been designed and approved in accordance with the Vermont Wastewater System and Potable Water Supply Rules for the premises.

- A. Properly sealed vault privies, composting toilets, and similar facilities may be used provided they meet the isolation distances established in the RULES for disposal fields. The Septic Compliance Officer shall determine if proper isolation distances are maintained. A Disposal System Construction Permit shall be obtained prior to contracting for, or installation of, vault privies, outhouses or similar facilities.
- B. All sewage generated in a residence using waterless toilets shall be conveyed, treated, and disposed of in the same manner as other sewage, as provided in this ordinance, which includes obtaining a Disposal System Construction Permit and Certificate of Occupancy. For residences permitted to use waterless toilets, the leach field for the septic system may be reduced in size by no more than 35 percent, provided sufficient area exists to expand the field to full size should conventional toilets be installed, and a full size replacement area is identified and reserved. Mound systems may not be reduced in size.

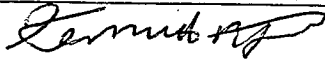
SECTION VIII. SEVERABILITY

If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Approval of any on-site wastewater system design and installation by the granting of a Disposal System Construction Permit and Certificate of Occupancy shall not imply that the approved system will be free from malfunction. Proper maintenance of on-site wastewater systems is vital to their proper functioning. The provisions of this Ordinance shall not create liability on the part of the Town of Fair Haven, any town official, or employee.

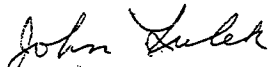
Adopted by The Town of Fair Haven Selectboard

Kenneth Jones Chairman



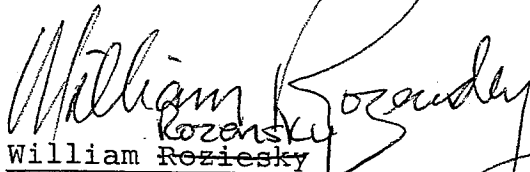
4/14/04
Date

John Lulek Clerk



4/15/04
Date

William Roziesky


William Roziesky

4/14/04
Date

Raymond Bunker

Date

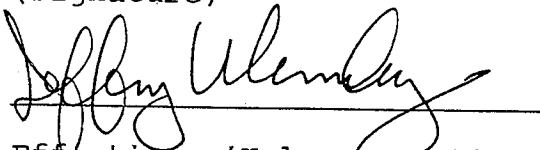
Mary Canfield


Mary Canfield

4/14/04
Date

Approved by the Department of Environmental Conservation:

(Signature)



5/11/04
Date

Effective: (Unless a petition is filed under 24 VSA Section 1973)
Town Clerk's Statement as filing of petition by: