

CUMBERLAND COUNTY BOARD OF HEALTH

ORDINANCE NO. 13

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF HEALTH REGULATING THE LOCATION, CONSTRUCTION, ALTERATION, INSPECTION, TESTING, MAINTENANCE, AND USE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS WITHIN THE JURISDICTION OF THE CUMBERLAND COUNTY BOARD OF HEALTH

WHEREAS, the Cumberland County Board of Health deems it absolutely necessary to protect the public health and to prevent the pollution and contamination of water resources; and

WHEREAS, N.J.S.A. 26:3A2-5(c) provides that a County Board of Health shall exercise within the area of its jurisdiction all of the powers granted to a local board of health; and

WHEREAS, in N.J.S.A. 26:3A2-22, the Legislature has declared it the policy of the State to provide for the administration of environmental health services by County Departments of Health throughout the State, which services shall include the enactment, monitoring and enforcement of environmental health ordinances on a countywide basis; and

WHEREAS, N.J.S.A. 26:3A2-27 further empowers the Cumberland County Board of Health to adopt and enforce environmental health ordinances for the territory in the County of Cumberland under the jurisdiction of the Cumberland County Board of Health, including ordinances controlling water pollution; and

WHEREAS, the State Legislature has provided in N.J.S.A. 26:3A2-27 that a County Board of Health may adopt standards for the construction and certification of individual subsurface sewage disposal systems which are more stringent than existing State Standards provided that the State Standard allows for the adoption of more stringent ordinances; and

WHEREAS, the Cumberland County Board of Health believes it is in the best interest of the residents of Cumberland County to regulate the location, construction, inspection, alteration, testing, maintenance and use of individual subsurface sewage disposal systems; and

WHEREAS, N.J.A.C. 7:9A-3.1 and N.J.S.A. 26:3-69 to 69.6 empower the Cumberland County Board of Health, as the Administrative Authority, to adopt N.J.A.C. 7:9A, The STANDARDS FOR INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEMS, by reference and to

also include additional, requirements, if needed within the jurisdiction of the Cumberland County Board of Health, through the adoption of a “special ordinance”;

NOW THEREFORE, BE IT ORDAINED BY THE CUMBERLAND COUNTY BOARD OF HEALTH OF THE COUNTY OF CUMBERLAND AND STATE OF NEW JERSEY FOLLOWS:

Section 1. Short Title:

This Ordinance shall be known as the “Cumberland County Board of Health and Cumberland County Health Department Individual Subsurface Sewage Disposal System Special Ordinance”

Section 2. Adoption of Standards by Reference:

- A. The regulations promulgated by the State Commissioner of the Department of Environmental Protection pursuant to the Realty Improvement Sewerage and Facilities Act (1954) and subsequent amendments thereto also known as N.J.A.C. 7:9A "Standards for Individual Subsurface Sewage Disposal Systems", last amended March 7, 2012, and all subsequent amendments thereto, which provide standards for the proper location, design, construction, installation, alteration, operation and maintenance of individual subsurface sewage disposal systems are hereby adopted and are of full force and effect in the County of Cumberland, except for the regulations and higher standards prescribed by this Ordinance.
- B. Three copies of said Standards for Individual Subsurface Sewage Disposal Systems (2012) have been placed on file in the office of the Secretary of this Board of Health upon the introduction of this Ordinance and will remain in said office for the use and examination of the public.

Section 3. Definitions:

This Ordinance incorporates the definitions contained in the Definition Subchapter of the New Jersey Administrative Code 7:9A as if specifically set forth herein. In addition to the definitions contained in N.J.A.C. 7:9A, the following additional definitions are adopted as part of this ordinance:

Existing Use Determination – A decision by the Cumberland County Health Department, following review of related reports and information, to allow or disallow the use of an existing subsurface sewage disposal system when a sale, change of use, expansion or alteration of an existing realty improvement served by a subsurface sewage disposal system is proposed.

Owners Agent – Any individual, business, or other entity who performs a service in relationship to this Ordinance, regardless of whether there is a charge associated with the service, for, or on the behalf of, a property owner or their designee.

Real Property - property that includes land and buildings, and anything affixed to the land. Real property would include, but not be limited to, residential homes, barns, garages, warehouses, factories, offices, and other buildings permanently affixed to the land.

Septic Hauler – An individual or business licensed by the New Jersey Department of Environmental Protection to pump sewage disposal systems and to haul the waste to a licensed disposal facility.

Septic Inspection – As used in this Ordinance, an inspection performed on an existing system and done in accordance with the New Jersey Department of Environmental Protection, Technical Guidance for the Inspections of Onsite Wastewater Treatment and Disposal Systems

Septic Inspector – inspection personnel conducting inspections of existing subsurface sewage disposal systems in accordance with the New Jersey Department of Environmental Protection, Technical Guidance for the Inspections of Onsite Wastewater Treatment and Disposal Systems and as required by this Ordinance.

System – as used in this ordinance, the sewage disposal system serving, or proposed to serve, a realty improvement

Section 4. Inspection Required for existing systems

- A. Existing systems will require an inspection for the following reasons:
 - 1. The system is not operating properly (i.e., overflow, back-up into the house, need of frequent pumping)
 - 2. A sale of the real property if required by the purchaser at the time of a real estate transaction. If the purchaser chooses not to have an inspection done they shall come to the Cumberland County Board of Health to obtain a waiver which can be presented to the Township in conjunction with obtaining a Certificate of Occupancy
 - 3. An expansion, alteration or change of use of the real property served by the system is proposed
- B. Any inspection performed as required by Section 4 – A of this Ordinance shall be performed in compliance with the New Jersey Department of Environmental Protection, Technical Guidance for the Inspections of Onsite Wastewater Treatment and Disposal Systems and documented on the forms provided in Appendix A of N.J.A.C. 7:9A for such purpose; or shall comply with N.J.A.C. 7:9A-3.3(b), (c), or (d).
- C. All inspection reports shall be reviewed by the Cumberland County Health Department for an Existing Use Determination.
- D. Inspection report forms shall be submitted to the Cumberland County Health Department in hard copy format with the appropriate fee established in Ordinance #11.
- E. It shall be a violation of this Ordinance to use a system prior to receiving a Cumberland County Health Department Final Septic Certification or obtaining compliance as required in the Cumberland County Health Department System Inspection Report Review.

Section 5. Cesspools – Restatement of 7:9A-3.16 Other sanitary sewage disposal units

(a) Cesspools, privies, outhouses, latrines, pit toilets or similar sanitary sewage disposal units are not systems. When an administrative authority discovers a privy, outhouse, latrine, pit toilet or similar sanitary sewage disposal unit, or any cesspool that serves a structure and that is in need of repair or alteration, it must order these units be abandoned and a conforming system installed except:

1. If it is not possible to bring the system into conformance with this chapter, the system shall be brought as close to conformance with the requirements of this chapter as the administrative authority determines is possible, provided the system as improved results in a discharge that is protective of human health and the environment; or

2. If the administrative authority is not able to approve a system under (a)1 above, application shall be made for approval to utilize a holding tank in accordance with N.J.A.C. 7:9A-3.12(c).

(b) Effective June 2, 2012, except as provided at (c) below, all cesspools, privies, outhouses, latrines and pit toilets that are part of a real property transfer shall be abandoned and replaced with a system in accordance with (a) above.

(c) A cesspool that is not malfunctioning may continue to serve the structure after a real property transfer only in the following circumstances:

1. A conveyance for a consideration of less than \$100.00;
2. A conveyance by or to the United States of America, the State of New Jersey, or any instrumentality, agency or subdivision thereof;
3. A conveyance encumbering realty, or providing for the modification, release or discharge of a debt, obligation or encumbrance, or the foreclosure of a mortgage or lien, or sheriff and execution sales;
4. A deed which confirms or corrects a deed previously recorded;
5. A sale for delinquent taxes or assessments and the foreclosure of same;
6. Judicial proceedings affecting interests in real estate, and documents filed in connection thereto;
7. A conveyance by a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;
8. A deed eligible to be recorded as an “ancient deed” pursuant to N.J.S.A. 46:16-7;

9. A deed or map that memorializes subdivisions of land, or which creates or affects easements or restrictions or other burdens upon title;
10. A conveyance between family members or former spouses;
11. Execution of a lease or license;
12. In specific performance of final judgment;
13. A deed releasing a right of reversion;
14. A deed by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's property in accordance with the provisions of the decedent's will or the intestacy laws of New Jersey, or the passage of title by intestacy or descent; or
15. A deed to effectuate a boundary line agreement.

(d) A person claiming to qualify for an exemption under (c) above shall document the exemption that applies by providing to the administrative authority applicable State of New Jersey Affidavit of Consideration of Use forms available through the New Jersey Department of Treasury and all supporting documentation.

Section 6. Registration of Inspection Personnel

- A. Personnel conducting septic inspections as required in Section 4 of this ordinance, shall register their name, business name and contact information annually with the Cumberland County Health Department, having completed the following requirements:
 - a. Attended a continuing education seminar presented by the Cumberland County Board of Health within the past twelve months.
 - b. Alternately provided proof of attendance at a similar seminar including a syllabus of the materials covered.
 - c. Certified that they have watched a video presentation of the most recent continuing education seminar presented by the Cumberland County Board of Health.
- B. The Cumberland County Health Department may supply a list of the registered inspection personnel upon request to any person requesting same. Acceptance and publication of a person's information on the list is not an endorsement but an acknowledgement that they have met the minimum requirements.
- C. The Cumberland County Health Department reserves the right to remove registered inspectors from the list should it be determined that the information submitted in their report is found to be fraudulent, inaccurate or deceptive in nature.

- D. Prior to removal from the registration list, the Cumberland County Health Department shall notify the registered inspector and allow for a hearing of the incidents giving rise to the proposed removal.
- E. Removal from the registration list shall be in effect for a period of one year, after which time the inspection personnel may request reinstatement to the registration list. Upon reinstatement to the list, the Cumberland County Health Department requires the witnessing of no less than 1 inspection per quarter performed by the reinstated inspector within the next year. Failure to have inspections witnessed will result in removal from the list.

Section 7. Tank Tightness Testing

- A. Tank Tightness Testing required by N.J.A.C. 7:9A-8.2(m) shall be performed by an individual with adequate equipment and training for the purpose of performing the test.
- B. The Tank Tightness Test shall not be performed by the homeowner or any individual having a financial or legal interest in the property.
- C. Tank Tightness Test results shall be submitted to the Cumberland County Health Department as part of the inspection forms required for the system. The test result report shall include the following information:
 - a. Property Information: owner, address, township, block and lot
 - b. Date of the test
 - c. Test method used
 - d. Name of who performed the test (Business or Individual)
 - e. Signature and Date of the person performing the test

Section 8. Grease Traps

- A. In accordance with N.J.A.C. 7:9A-8.1(a) Restaurants, cafeterias, institutional kitchens and other facilities discharging large quantities of grease shall use a grease trap and a high strength wastewater pretreatment component.
- B. Applications for new retail food facilities served by subsurface sewage disposal systems will have their retail food application and sewage disposal system application reviewed jointly. The determination concerning the requirement for grease trap pre-treatment will be based on menu, food preparation equipment, grease waste disposal contracts and other factors affecting the amount of grease that will be discharged through the drains and into the sewage disposal systems.
- C. Applications for existing retail food facilities with a proposed expansion, change of menu, or change of operation which are served by a subsurface sewage disposal systems may require an inspection of the existing sewage disposal system if it is determined that the proposed changes will increase the volume of sewage or the

amount of grease discharged to the system. If an inspection report is required, the inspection report and the retail food application will be reviewed jointly. The determination concerning the requirement for grease trap pre-treatment will be based on menu, food preparation equipment, grease waste disposal contracts, condition of the existing system and other factors affecting the amount of grease that will be discharged through the drains and into the sewage disposal systems.

Section 9. Tank Label Material and Placement

- A. In accordance with N.J.A.C. 7:9A-8.2(l)2, a permanent, non-corrosive marker a minimum of six square inches in size containing the following information shall be attached to the manhole cover or riser immediately below the cover:
 - i. The administrative authority name and permit number under which the system was installed;
 - ii. The date of installation;
 - iii. The type of system; and
 - iv. The total design criteria in gallons per day.
- B. The non-corrosive material shall consist of aluminum, tin, or other non-corrosive metal or plastic. Labels shall not be paper or paper product that will decompose over time.
- C. Labels shall be permanently affixed to the outside of the riser or manhole cover in an area which can be easily visible during homeowner or contractor inspection.

Section 10. Permit Expiration Date and Renewal of Expired Permits

- A. An approved application for the construction, installation, repair and/or alteration of a subsurface sewage disposal system shall be considered to be a permit.
- B. Permits shall be valid one year from the date of approval providing no Permit Extension Acts are in affect.
- C. Requirements for the renewal of a permit:
 - a. Submission of a certification form signed and sealed by the design engineer and stating compliance with N.J.A.C. 7:9A is maintained, there are no changes in site conditions that will require a change to the original design; and,
 - b. The permit renewal fee established in Ordinance 11 has been paid
- D. Determination that site conditions have changed will require the applicant to submit a revised application for the system.

Section 11. Existing Holding Tanks and Advanced Treatment Systems

- A. Whenever the CCHD has knowledge through report or direct observation of the existence of a holding tank or advanced treatment system, it shall investigate and take all steps necessary to determine whether the system is compliant.
- B. When a system has been determined to be non-compliant or unpermitted, the owner shall take immediate steps to correct the non-compliance. The owner shall apply for a permit and shall comply with Board of Health Ordinance 10 and this Ordinance as applicable. Only the CCHD or the DEP shall determine that a system is non-compliant.

Section 12. Severability and Preemption:

In the event that any section, sentence or clause of this Ordinance shall be deemed unconstitutional or invalid by a court of competent jurisdiction, shall be preempted or otherwise modified by State or Federal law, such declaration shall not in any matter render void or prejudice the enforcement of the remaining sections of this Ordinance.

Section 13. Violation and Penalties:

- A. Violation of any provision of N.J.A.C. 7:9A et seq shall be a violation of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the violator shall be subject to assessment of civil administrative penalties pursuant to the provisions of N.J.A.C. 7:14-8. The matrix of Civil Administrative Penalties begins at a minimum of one thousand dollars (\$1,000) to a maximum of fifty thousand dollars (\$50,000) in accordance with the regulations.
- B. In addition to any other liability or penalty imposed by law, any person violating any additional provision of this Special Ordinance shall be subject to a penalty of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1000.00) Dollars for each offence.
- C. Each and every day in which a violation of any of the provisions of the Ordinance exists shall constitute a separate offense.

Section 14. Inconsistent Ordinances Repealed:

All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Pursuant to N.J.S.A. 26:3A2-27, this Ordinance supersedes all inconsistent Municipal and Local Board of Health Ordinances regulating the same subject matter.

Section 15. Effective Date:

This ordinance and future amendments shall take effect after public hearing and 30 days after final adoption by the Cumberland County Board of Health unless disapproved by the Commissioner of the Department of Environmental Protection within said period pursuant to N.J.S.A. 26:3A2-27.

- A. The Secretary of the Board is hereby directed to publish and distribute this ordinance in accordance with law.
- B. Copies of this ordinance upon adoption shall be forwarded to:
 - 1. New Jersey Department of Environmental Protection
Bureau of Local Environmental Management
 - 2. All Municipalities within the Jurisdiction of the CCHD

DATE OF INITIAL ADOPTION: February 26, 2014

DATE OF AMENDMENT ADOPTION: September ____, 2017

CERTIFICATION

Passed and adopted at the meeting of the Cumberland County Board of Health held on September 27, 2017 at 5:30 p.m.

CHARLOTTA BIRDSALL, Chairperson

STEVEN ERRICKSON, Secretary