

Town of Otis

HOLDING TANK ORDINANCE

BE IT ENACTED AND ORDAINED by the inhabitants of the Town of Otis of Hancock County, and is hereby enacted and ordained as follows:

SECTION I. PURPOSE

The purpose of this ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain wastewater from residential or commercial uses. It is hereby declared that the enactment of this ordinance is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this municipality.

SECTION II. AUTHORITY

This Holding Tank Ordinance is enacted pursuant to Article VIII, part 2, Section 1 of the Constitution of the State of Maine, Title 30-a Section 3001 of the M.R.S.A.

SECTION III. REPEAL

All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

SECTION IV. SEVERABILITY

If any sentence, clause, section, or part of this ordinance is for any reason declared by the courts to be unconstitutional, illegal, or invalid, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

SECTION V. CONFLICT WITH OTHER ORDINANCES

If this Ordinance is found to be in conflict with any other ordinance, then the more restrictive ordinance shall apply.

SECTION VI. SELECTMEN MAY ADOPT RULES

The Selectmen are hereby authorized and empowered to prepare written guidelines on how to comply with this ordinance. In doing so applicable federal, state and local

standards regarding fire prevention, pollution control, public safety, nuisance, and health shall be given due consideration.

SECTION VII. PERFORMANCE STANDARDS

The following standards shall be utilized by the board in reviewing applications for a holding tank for first time disposal systems. The board shall approve the application unless the board finds that the applicant has not satisfied one or more of the following standards.

- A. A holding tank for a first time disposal system shall not be permitted in any area regulated under the Town of Otis Shoreland Zoning Ordinance
- B. A holding tank for a first time disposal system shall not be permitted to satisfy the requirements for a seasonal conversion permit under Title 30-A M.R.S.A. section 4215 subsection 2.
- C. The installation of a disposal field in conformance with the State Plumbing Code is not feasible due to site conditions, lot conformance or other constraints.
- D. The plumbing in the structure shall be modified for maximum water conservation and all water closets shall meet or exceed the State Plumbing Code as defined by Title 30-A M.R.S.A., Section 3003 and Subsurface Wastewater Disposal Rules, Chapter 22, Section 2202.1.3 for 1 gallon flush.
- E. A deed covenant shall be required for structures served by a holding tank. As a minimum, the covenant shall include a statement that a holding tank is serving the structure for the disposal of human sewage and wastewater. The aforementioned statement shall be a separate stand-alone section or paragraph. This will be required when any properties are sold after the effective date of this ordinance.
- F. The agreement between property owner and tank pumper shall be filed in the town office and indicate the location of the site or sites that the septage will be disposed of. Only those sites approved by the Maine Department of Environmental Protection shall be utilized.
- G. The owner shall file with the Town of Otis, a notarized statement agreeing to provide the Plumbing Inspector with copies of all plumbing records
- H. The holding tank shall be equipped with a visual and audible alarm device. The alarm shall be located and adjusted in a manner that assures the tank is pumped before its full as stated in the Subsurface Wastewater Rules, Chapter 10, Section 1013.4.

SECTION VIII. APPLICATION PROCEDURE & CONTENT

A. Application procedure:

1. All applications for a holding tank permit shall be in writing on forms provided for that purpose. The Board of Selectmen at their regular scheduled meetings shall receive applications.
2. The applicant, or his duly authorized agent, shall attend the Selectmen's meeting to discuss the application. The Selectmen shall provide the applicant with a dated receipt at the meeting where the application is first presented.
3. Within 35 days of the date of receiving a written application, the Selectmen or Licensed Plumbing Inspector shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete. The Selectmen or the Licensed Plumbing Inspector as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However if the Selectmen has a waiting list of applications a decision on the application shall occur within 35 days after the first available date on the Selectmen's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held.
4. All applications for a permit for a holding tank for a first time disposal system shall be made in writing, on forms provided for that purpose. The submission shall contain the following information and exhibits:
 - a. Name of the owner(s) of record and applicant's name and address, if different .
 - b. A sketch map showing the general location of the property
 - c. The tax map a lot number of the parcel
 - d. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
5. A holding tank application approved by the LPI as stated in Subsurface Wastewater Disposal Rules, Chapter 22, Section 2201.1 – 2202.1.4
6. A signed agreement between the property owner and a tank pumper to pump and maintain the tank as stated in the Subsurface Wastewater Rules, Chapter 22, Section 2200.5
7. A report or other documentation from a licensed site evaluator that indicates that due to the site condition, lot configuration, or other constraints, the installation of a system with a disposal field is not feasible.

8. A notarized statement agreeing to a deed covenant, which shall include a statement that a holding tank is servicing the structure for the disposal of human sewage and wastewater.
9. The owner shall file with the Town of Otis the notarized statement agreeing to provide the Plumbing Inspector with all copies of all plumbing records.

B. FEES

An application fee shall accompany all applications for a First Time Holding Tank Permit. The Selectmen shall have the authority to set and revise the fee schedule after holding a public hearing. Fees shall be based on the town's estimated costs of administering this ordinance.

C. EXPIRATION OF APPROVALS

Following the issuance of a permit, if no substantial start is made in construction within one year of the date of the permit, the permit shall lapse and become void.

SECTION IX. REPONSIBILITIES OF OWNER OF IMPROVED PROPERTY

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this or any other ordinance of the Town of Otis, the provisions of any applicable law, the rules and regulations of the Selectmen, and any administrative agency of the State of Maine, and Subsurface Wastewater Rules, Chapter 22.
- B. Permit the Selectmen, or their agent, to collect, transport, and dispose of the contents therein if the owner of the property has not fulfilled above stated responsibility
- C. Provide pumping records to the Plumbing Inspector on demand.

SECTION X. ENFORCEMENT

A. Rights and privileges granted

The Selectmen are hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank wastewater and the collection and transportation thereof provided the owner has not fulfilled their responsibilities as defined in section IX of this ordinance.

B. Rates and charges

The Selectmen shall have the right and power to pump, fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

C. Abatement of nuisances

In addition to any other remedies provided in this ordinance, any violation of section IX above shall constitute a nuisance and shall be abated by the municipality or Selectmen by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

D. Local Plumbing Inspector

It shall be the duty of the Local Plumbing Inspector, to be referred to from herein as the "LPI" to enforce the provisions of this ordinance. If the LPI shall find that any provision of this ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and the action necessary to correct it. A copy of such notices shall be maintained as a permanent record.

E. Legal action

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notification of the LPI, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and imposition of fines, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the municipality.

F. Fines

Any person, including but not limited to the property owner, a property owner's agent or a contractor who orders or conducts any activity in violation of this ordinance shall be penalized in accordance with title 30-A M.R.S.A., Section 4452. Each day the violation exists shall be considered a separate violation. Fines shall not be less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2500.00) per violation. Any fines shall accrue to the municipality. Any costs incurred by the municipality to enforce this ordinance including court costs and attorney fees shall be the responsibility of the violator(s).

SECTION XI. APPEALS

An aggrieved party may take an appeal to Superior Court in accordance with State of Maine laws within 45 days from the date of any decision of the Board of Selectmen.

SECTION XII. EFFECTIVE DATE

The effective date of this ordinance or any amendments thereto shall be the day immediately following its adoption at a regular or special town meeting. The adoption of this ordinance hereby repeals and supersedes all conflicting administrative provisions of all ordinances adopted prior to the effective date of this ordinance.

SECTION XIII. DEFINITIONS

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

“Aggrieved party” shall mean an owner of land whose property is directly affected by the granting or denial of a permit; or a person whose land abuts or is across a road, street, or body of water for which a permit is granted; or a person or group of persons who have suffered particularized injury as a result of the granting or denial of a permit.

“Commercial” means provisions for services on the premises, or the sale of goods to the general public on a regular basis for a charge or fee and rooms to let.

“Holding tank” A closed, watertight structure designed and used to receive and store wastewater or septic tank effluent. A holding tank does not discharge wastewater or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of wastewater at another site.

“Improved property” shall mean any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure wastewater shall or may be discharged.

“Local Plumbing Inspector” means a person as defined in Title 30-A M.R.S.A., Section 4221 and Section 4451.

“Municipality” Shall mean the Town of Otis, of Hancock County, Maine.

“Owner” shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality

“Person” shall mean any individual, partnership, company, association, corporation or other group or entity.

“Seasonal Conversion Permit” shall mean written authorization issued by the Local Plumbing Inspector to allow the conversion of a seasonal dwelling unit located in the Shoreland zone to a year-round use as defined in Subsurface Wastewater Rules, Chapter 3.

“Wastewater” shall mean any liquid waste containing animal or vegetable matter in suspension or solution, or the water carried wastes from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or other source of water carried wastes of human origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

ENACTED AND ORDAINED into an ordinance this day 17th of June A.D., 1996 of the inhabitants of the Town of Otis of Hancock county in a lawful session duly assembled.