

**PROPOSED  
AMENDMENTS  
TO  
CHAPTER 133  
CODE OF THE TOWN OF OLD LYME  
SEWAGE DISPOSAL SYSTEMS**

**§ 133-3. Definitions.**

The definitions heretofore set forth in Chapter 133 Section 133-3 are hereby revoked and the following substituted therefor.

“A. As used in this chapter, the following terms shall have the meanings indicated:

**REGISTERED PROFESSIONAL ENGINEER** means a professional engineer, licensed to practice in Connecticut pursuant to General Statute §20-299 *et seq.*, who provides a current professional liability policy to the Director of Health with respect to liability for loss, damage, and expense caused by any negligent act or omission of the professional engineer or his or her personnel during performance of his or her service. Any prior reference to professional engineer in Chapter 133 shall mean registered professional engineer.

**APPROVED SEPTIC SYSTEM DESIGNER** Licensed septic installers or registered sanitarians who are knowledgeable about the design and construction of on-site sewage disposal systems; who are approved by the WPCA to prepare designs for said systems, including their repair or expansion; and who provide a current professional liability policy with respect to liability for loss, damage, and expense caused by any negligent act or omission of the licensed septic system installer or registered sanitarian or his or her personnel during the performance of his or her service.

**AREAS OF SPECIAL CONCERN** Those areas designated by the WPCA from time to time in accordance with § 133-4 herein.

**BUILDING CONVERSION** means the act of winterizing a seasonal use building or portion thereof into year round use by providing one or more of the following: (A) a positive heating supply to the converted area; or (B) a potable water supply which is protected from freezing; or (C) energy conservation in the form of insulation to protect from heat loss or (D) any other modification of a building to make it suitable for occupancy during the colder seasons of the year.

**CESSPOOL** means a buried structure which receives Domestic Sewage from a building sewer for the purpose of collecting solids and most likely discharging liquid to the surrounding soil. Cesspools are not recognized as a Septic System in the Public Health Code.

**CHANGE IN USE** means any structural, mechanical or physical change to a building which allows the occupancy to increase; or any change in the activities within a building to expand or alter such building or the use thereof such that, when the building is fully utilized, the design flow or required effective leaching area of the On-Site Sewage Disposal System will increase within any time frame.

**COMPLETE INSPECTION** means an assessment of an existing On-Site Sewage Disposal System by the Director of Health, the Sanitarian or other authorized representative of the Director of Health which includes a review of all system components including construction materials, size and location; soil evaluation to determine adequate separation distance from maximum ground water level and ledge; and the sizing of the Leaching System. The Director of Health is authorized to impose additional inspection requirements based upon individual site conditions in Critical Resource Areas and upon the requirements of public health.

**CRITICAL RESOURCE AREAS** means those areas that may be particularly susceptible to degradation and pollution from On-Site Sewage Disposal Systems and which therefore warrant additional consideration for their protection and restoration. These may include

- (1) Tidal wetlands as defined by General Statute §22a-29(2), as amended (“Tidal Wetland”);
- (2) Inland wetlands and watercourses including vernal watercourses or ponds as defined by §22a-38(16), as amended (“Inland Wetlands” or “Watercourses”);
- (3) coastal waters as defined by General Statute §22a-93(5), as amended (“Coastal Waters”);
- (4) coastal bluffs and escarpments as defined by General Statutes §22a-93(7)(A), as amended;
- (5) beaches and dunes as defined by General Statute §22a-93(7)(C), as amended;
- (6) estuarine embayments as defined by General Statutes §22a-93(7)(G), as amended;
- (7) shellfish concentration areas as defined by General Statutes §22a-93(7)(N);
- (8) aquifer protection areas as defined by General Statute §22a-354h(10), as amended; or
- (9) submerged aquatic vegetation areas such as eel grass.

**DIRECTOR OF HEALTH** means the Director of Health of the Town of Old Lyme or such other person having powers thereof as designated by the Commissioner of Public Health.

**FAILED SYSTEM OR FAILURE** means any On-Site Sewage Disposal System which allows Sewage to discharge or flow from it into any storm drain, Watercourse, Inland Wetland, Tidal Wetland, gutter, street, roadway or public place; any such system which permits Sewage discharged from said System to the surface or subsurface of any property so as to create a nuisance or condition detrimental to health as determined by the Director of Health or as designated by the Public Health Code or as determined pursuant to this Ordinance. A Failed System is evidenced by, but not limited to, the following conditions.

- (1) Failure of the On-Site Sewage Disposal System to accept Sewage from a building sewer.
- (2) Discharge of Wastewater either directly or indirectly to a subsurface drain, surface drain, Tidal or Inland Wetland, Watercourse or other Critical Resource Area.
- (3) Sewage rising to the surface of the ground over or near any part of an On-Site Sewage Disposal System or seeping down-gradient from the Leaching Field of any Septic System at any change in grade, bank or road cut.
- (4) Discharge of improperly treated Wastewater to ground or surface waters resulting in contamination of the ground or surface waters.
- (5) Inadequate treatment or disposal of Wastewater due to deterioration, damage or improper maintenance or design of any Septic System.
- (6) Any other condition of a system resulting in a public health nuisance as determined by the Director of Health.

**LEACHING FIELD** means (1) that portion of a parcel of property which is set aside for the installation of a Leaching System or (2) that portion of the property where the Leaching System is installed.

**LEACHING SYSTEM** means the drainage structure or the gallery of pipes, including pumps, siphons and ground water control system, designed to permit overflow water from a Septic Tank to percolate into the soil in the Leaching Field.

**LIQUID WASTE DISPOSAL TICKET** means the document prepared by a licensed and registered Septic Tank Cleaner or Septic System Installer provided to the Owner/Property Owner which states the following: (1) date of Pump-Out; (2) address of residence; (3) quantity of Septage removed from Septic Tank; and (4) destination for disposal of the Septage removed from the Septic Tank;

**MAINTENANCE** means the regular cleaning of the Septic Tank, Cesspool, building sewer, distribution line, or any other component of a Septic System for the purpose of removing any accumulated liquids, scum or sludge. The term Maintenance shall also mean any regularly required servicing or replacement of related mechanical, electrical or other equipment.

**MALFUNCTIONING SYSTEM OR MALFUNCTION** means any On-Site Sewage Disposal System that exhibits a condition or conditions which, if not timely corrected, will, in the judgment of the Director of Health, result in a Failed System. An on-site sewage disposal system shall be deemed to be a malfunctioning system if sewage is allowed to contaminate ground- or surface water or to discharge or flow from it into any storm drain, stream, gutter, street roadway or private property so as to create a nuisance or condition detrimental to health as determined by the Director of Health or his agent. Substantial backflow from the Leaching System into the Septic Tank during a Septic Tank Pump-Out is an indication of a Malfunctioning System.

**MAXIMUM GROUND WATER LEVEL** means the level to which ground water rises for a duration of one month or longer during the wettest season of the year.

**MODIFICATION OR EXPANSION OF AN EXISTING SYSTEM** Work to be done to an existing on-site sewage disposal system shall be deemed a modification or expansion of an existing system for the purposes of this chapter if the system is enlarged or modified for the purpose of accommodating changes in the building(s) it serves. "Modification or expansion of an existing system" shall expressly not include the repair of a malfunctioning system.

**ON-SITE SEWAGE DISPOSAL SYSTEM** A system for the treatment and disposal of less than 2,000 gallons per day of sewage derived from residences and businesses consisting of a building sewer, a septic tank followed by a leaching system, any necessary

pumps and siphons, and any groundwater control system on which the operation of the leaching system is dependent.

**OWNER/PROPERTY OWNER** means the person or legal entity which alone, jointly, or severally with others: (a) has legal title to any premises; or (b) has control of any premises. Control of a premises shall include persons or legal entities which are holders of legal title, agents of the holder of legal title, executors, executrixes, administrators, administratrixes, trustees or guardians of the estate of the holder of legal title. Each of the foregoing is bound to comply with the provisions of this Ordinance.

**PERMIT TO CONSTRUCT** means the approval to construct issued and administered by the local director of health in accordance with Section 19-13-B103d of the Connecticut Public Health Code and the approved plans.

**PERMIT TO DISCHARGE** means the approval of the Director of Health upon determination that the Septic System has been installed in compliance with the requirements of Section 19-13-B103d of the Connecticut Public Health Code and the approved plans.

**PUMP-OUT** means the removal of Septage from a Septic System by a Septic Tank Cleaner or Septic System Installer.

**REPAIR** means any work performed on an On-Site Sewage Disposal System in order to mend or renovate a specific defect or deficiency after a failure, injury, deterioration or partial destruction of a previously existing On-Site Sewage Disposal System or component thereof. A Repair shall not include any work performed on an existing On-Site Sewage Disposal System that increases the design capacity of the System.

**SEPTAGE** means the solid or liquid materials which are pumped out of a Septic Tank.

**SEPTIC SYSTEM** means an On-Site Sewage Disposal System consisting of a Septic Tank and Leaching System.

**SEPTIC TANK** means the water-tight receptacle which is used for the treatment of Sewage and is designed and constructed so as to permit the settling of solids, the digestion of organic matter by detention and the discharge of the liquid portion to a Leaching System.

**SEPTIC TANK CLEANER** means any subsurface sewage disposal system cleaner licensed by the State of Connecticut pursuant to General Statute §20-341a, as amended.

**SEPTIC SYSTEM INSTALLER** means any subsurface sewage disposal system installer licensed by the State of Connecticut pursuant to General Statute §20-341a, as amended.

**SEWAGE / DOMESTIC SEWAGE** means Wastewater from domestic sewer lines consisting of water and human excretions or other waterborne wastes incidental to the occupancy of a residential building or a non-residential building, as may be detrimental to the public health or the environment, but not including manufacturing process water, cooling water, waste water from water softening equipment, blow down from heating or cooling equipment, water from cellar or floor drains or surface water from roofs, paved surfaces or yard drains.

**UPGRADE** means modifications to an On-Site Sewage Disposal System which brings the system into, or more nearly into, compliance with the requirements of the Connecticut Public Health Code as then in effect.

**VIOLATION** means (1) the failure to comply with and adhere to the rules and regulations set forth in this Ordinance or the Connecticut Public Health Code or (2) the improper discharge of Sewage from a failed On-Site Sewage Disposal System.

**VISUAL INSPECTION** means the assessment of On-Site Sewage Disposal Systems by pumping and visually inspecting the structure.

**WASTEWATER** means Sewage / Domestic Sewage.

“B. The definition for any term for which the meaning is not already provided, or is otherwise not clear, shall be the same definition as is provided in the Public Health Code cited above.”

Section § 133-5 B is hereby revoked and the following substituted therefor:

“**Section § 133-5 B.** No building shall be constructed, expanded, substantially altered, Building Conversion conducted or Change in Use undertaken unless and until the owner of such building or his agent has applied for and received approval of the existing on-site sewage disposal system facilities for such building from the Director of Health or his agent. All facilities meeting the requirements of this chapter and the Public Health Code shall be so approved.”

§ 133-6 Site Investigations is hereby revoked and the following substituted therefor:

**“§ 133-6. Site Investigations.**

**A. Malfunctioning System Inspections**

The Director of Health or the Agent of the Director of Health shall have the right of entry to any land in the Town of Old Lyme for the purpose of conducting inspections of On-Site Sewage Disposal Systems and performing such tasks as the Director of Health determines are advisable for the purpose of determining whether or not an inspected system should be designated as a Malfunctioning System or a Failed System. If access to the interior of a structure is required, the Director of Health shall send a written notice to the Property Owner of said intention to evaluate the On-Site Sewage Disposal System. Except in emergency situations, said notice shall be sent by certified mail at least five (5) days prior to the scheduled date of inspection. If access to the property or structure is denied, the Director of Health shall notify the Owner in writing that the Permit to Discharge for that property will be revoked. The Director of Health shall determine the severity of the complaint and can revoke the Permit to Discharge immediately if he/she deems this appropriate for the protection of the public health and the environment.

**B. Complete Inspections**

The Director of Health or the Agent of the Director of Health shall conduct a Complete Inspection of all On-Site Sewage Disposal Systems within five (5) years of the effective date of this Ordinance. The Director of Health is authorized to exercise discretion in identifying and selecting systems for Complete Inspection which are located in Critical Resource Areas for expedited inspection. The Director of Health is authorized to designate licensed Septic System Installers and Registered Professional Engineers to conduct Complete Inspections provided said persons are licensed or registered in accordance with Section 133-3 of this Ordinance.

**C. Visual Inspections**

Licensed Septic Installers shall conduct a Visual Inspection of a Septic System at any time they access the internal structure of the Septic Tank for purposes of maintenance, Upgrade or Repair. A copy of the report of the Visual Inspection shall be provided to the Director of Health for record purposes. Licensed Septic Tank Cleaners shall conduct a Visual Inspection of a Septic System at any time a Pump-Out is provided for a Property Owner. A copy of the Visual Inspection report shall be provided to the Director of Health for record purposes.

#### **D. Inspection Records System**

The Director of Health shall maintain a system of records pertaining to each property which is served by an On-Site Sewage Disposal System. The individual property records shall include such documents as the Permit to Discharge, Complete Inspection reports, Visual Inspection reports, Notices of Violation, Notices of Revocation of Permit to Discharge, Abatement Orders, Liquid Waste Disposal Tickets, Pump-out Permits, Permits to Construct and all other correspondence pertaining to the construction, operation, maintenance and inspection of the On-Site Sewage Disposal System.”

#### **§ 133-7. Maintenance of existing systems.**

§ 133-7A shall be amended to require that all septic tanks, cesspools and similar receptacles serving on-site sewage disposal systems be pumped out not less than once in every five year period.

§ 133-7C and 7D shall be added as follows:

**“C. Malfunctioning Systems** The Director of Health is authorized to issue Notices of Malfunction to the Owner of an On-site Sewage Disposal System which is deemed, after a Visual Inspection, a Malfunction Inspection, or a Complete Inspection is conducted, to be a Malfunctioning System. The Director of Health is authorized to direct correction of a Malfunctioning System within six (6) months of the date of the Notice of Malfunction or at such earlier time as required by public health considerations. In the event the Owner fails to take the action directed, the Director of Health may revoke the Owner’s Permit to Discharge. Upon the revocation of the Permit to Discharge, the Director of Health may declare the subject building unfit for human habitation and post the same as such and may pursue any other remedy at law or equity.”

**“D. Failed System** Upon identification of a Failed System by way of a Visual Inspection, a Malfunction Inspection or a Complete Inspection, the Director of Health is authorized to issue a Notice of Revocation of the Owner’s Permit to Discharge. The Director of Health is also authorized to issue a Notice of Violation to the Owner indicating the nature of the failure and an Abatement Order identifying the Repairs to be made and the time limit within which they are to be performed but the issuance of such a Notice or Order shall not be a prerequisite for the revocation of the Permit to Discharge. Upon the revocation of the Permit to Discharge, the Director of Health may declare the subject building unfit for human habitation and post the same as such and may pursue any other remedy at law or equity.”

Section § 133-8.2 Discharge Permits shall be added as follows:

**“§ 133-8.2. Discharge Permits.**

A. It shall be unlawful for any Owner or occupant of any building or the user of any land served by an On-Site Sewage Disposal System to discharge Sewage into said System unless, after the point in time when such Permit is required by this Ordinance, a Permit to Discharge authorizing said discharge has been obtained from the Director of Health.

B. Initially, a Permit to Discharge shall be issued following a Complete Inspection of the On-Site Sewage Disposal System by the Director of Health or the Agent of the Director of Health, which inspection does not disclose any Malfunction of the System. Said Permit to Discharge shall be valid for a period of five (5) years from the date of issue unless sooner revoked due to a Malfunction or Failure disclosed by an inspection by the Director of Health or the Agent of the Director of Health. When Malfunctioning or Failed System has been Repaired and inspected by the Director of Health or Agent of the Director of Health, a Permit to Discharge shall be re-issued.

C. The Permit to Discharge for any On-Site Sewage Disposal System discovered to be a Failed System as defined by this Ordinance shall be subject to revocation by the Director of Health. Similarly, any failure to comply with an Abatement Order for a Failed or Malfunctioning System shall be subject to revocation of the Permit to Discharge by the Director of Health. The Director of Health shall issue a Notice of Revocation of Discharge Permit to the owner of the property by Certified Mail. The Notice of Revocation of the Discharge Permit shall also be forwarded to the Building Official. No Building Permit for any expansion or change in use of any building shall be granted for a property on which the Permit to Discharge has been revoked.

D. Enforcement Abeyance: Enforcement of Subsection A of this Section against owners of On-Site Sewage Disposal Systems which are in existence upon the effective date of this Ordinance shall be held in abeyance until December 31, 2012. This Enforcement Abeyance is for the purpose of permitting Property Owners to undertake the necessary measures to construct, reconstruct, Repair or Maintain the existing On-Site Sewage Disposal Systems.”

Section §133-8.3 Renewal of Discharge Permits shall be added as follows:

**“§133-8.3. Renewal of Discharge Permits.**

A. No Discharge Permit shall be renewed unless the following conditions have been satisfied:

1. The Owners of the building shall have the On-Site Sewage Disposal System subject to a Complete Inspection and pumped out by a Septic Tank Cleaner. The Owner or the contracted Septic Tank Cleaner shall be responsible to obtain a Pump-out Permit and Liquid Waste Disposal Ticket from the Director of Health and/or Sanitarian prior to the Visual Inspection and Pump-out of the Septic Tank
2. The Owner or contracted Septic Tank Cleaner shall inform the Director of Health and/or the Sanitarian at least 24 hours prior to the Pump-Out except in cases of emergency.
3. The Complete Inspection and cleaning must be performed no later than 30 days before the expiration date of the existing Permit to Discharge.
4. The Director of Health and/or the Sanitarian shall have the right to observe the Complete Inspection and cleaning at his discretion, and to perform such tests as the Director of Health and/or the Sanitarian deems appropriate to determine whether or not said system is malfunctioning.
5. The Complete Inspection and cleaning of the On-Site Sewage Disposal System must disclose no Malfunction. Any Malfunction noted must be repaired within 60 days and reported to the Director of Health. Upon failure to repair and report as required, the Director of Health is authorized to issue a Notice of Violation and / or an Abatement Order in accordance with Section 133-8 of this Ordinance.

B. The Director of Health is hereby authorized to waive the Complete Inspection and cleaning of the Septic Tank if he/she determines that a Complete Inspection and cleaning are not necessary because of limited use of the System or because of a recent cleaning or Complete Inspection of the System.

C. The Owner of any building shall be entitled to have the Discharge Permit renewed at any time prior to the expiration of the existing Discharge Permit, provided the Septic Tank is cleaned and a Complete Inspection of the Septic System is performed by the Director of Health, the Sanitarian or the Authorized agent of the Director of Health at the time of said cleaning and no Malfunction is discovered.”

**§133-8.4. Replacement.**

The following On-Site Sewer Disposal Systems shall be replaced as follows:

1. Cesspools shall be replaced with Septic Systems which conform to current state and local standards by December 31, 2012.
2. Septic Tanks having a capacity of less than 900 gallons or two-thirds of the required size, whichever is greater, shall be replaced by December 31, 2012 with a tank of proper size in accordance with the State Health Code or required by local requirements.
3. Septic Tanks that are constructed of steel shall be replaced by December 31, 2012.
4. Septic Tanks that leak shall be repaired or replaced within sixty (60) days of receipt of notice of such leakage.
5. Leaching Systems which are less than 50% of the required size shall be Upgraded to maximize effective leaching area by December 31, 2012.
6. Septic Systems Leaching Systems which are less than eighteen (18) inches above Maximum Ground Water Level or which are less than four (4) feet above ledge rock shall be Upgraded to maintain required separation distances by December 31, 2012.
7. All non-conforming Septic System pumps and pump chambers shall be Upgraded to meet the requirements of the Public Health Code by December 31, 2012.