

**MINUTES
BOARD OF HEALTH
TOWNSHIP OF CHATHAM
DECEMBER 8, 2009**

President Jim Brown called the regular meeting of the Board of Health to order at 7:40 P.M.

Answering present to the roll call were Mr. Newby and Mr. Brown. Dr. Marano and Mr. Tubbs were absent. Mr. Nachtigal arrived a few minutes late. Mr. Samara was also present.

Adequate notice of this meeting of the Board of Health was given as required by the Open Public Meetings Act as follows: Notice was given to both the Chatham Courier and the Morris County Daily Record on January 14, 2009; notice was posted on the bulletin board in the main hallway of the Municipal Building on January 14, 2009; and notice was filed with the Township Clerk on January 14, 2009.

Reports

Registered Environmental Health Specialist

Registered Environmental Health Specialist Ben Samara reported that things are winding down for retail food establishment inspections. He has done a lot of walk-through inspections, and the inspections have been satisfactory. Mr. Samara also indicated that he has spent a lot of time dealing with a resident whose condominium was uninhabitable. The resident was sent to St. Claire's Hospital by the Municipal Court for a psychiatric evaluation. Mr. Brown asked how the circumstance came to light. Mr. Samara indicated that neighbors made complaints. He also indicated that the resident would need some sort of assistance to ensure that she takes her medications and keeps her condominium clean. Mr. Samara expects the unit to be habitable again in about two weeks. Mr. Brown asked about a soil log test, and if the test was for a new septic system. Mr. Samara explained that the property owner was considering an expansion to their house, which would necessitate an expansion of their septic system. The property has a high water table, which would mean that mounding would be necessary for the system.

Registrar of Vital Statistics

Mr. LaConte reported the following licenses and certified copies were issued in November:

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|---|-------------|
| 2 Marriage Licenses | \$56 |
| 3 Certified copies of Marriage Licenses | \$20 |
| 1 Certified copy of a Death Certificate | <u>\$10</u> |
| Total | \$86 |

Secretary

Mr. LaConte reported that retail food license renewal letters have been sent out, and seven applications have already been received. Furthermore, the contract with the Borough of Madison for health services has been signed.

Mr. Brown moved to accept the REHS, Registrar and Secretary reports. Mr. Newby seconded the motion, and it carried unanimously.

Public Hearing/Final Adoption of Ordinances

Ordinance BH-3-09- Septic Management Ordinance

ORDINANCE BH-3-09

**AN ORDINANCE TO AMEND THE CODE OF THE BOARD OF HEALTH OF THE
TOWNSHIP OF CHATHAM TO ESTABLISH REQUIREMENTS FOR THE OPERATION AND
MAINTENANCE OF ON-SITE SEWAGE DISPOSAL SYSTEMS.**

BE IT ORDAINED by the Board of Health of the Township of Chatham in the County of Morris and State of New Jersey as follows:

SECTION ONE: PURPOSE

In addition to the purposes set forth in N.J.A.C. 7:9A-1.1., it is the purpose of this ordinance:

1. To establish a management program for individual and non-individual subsurface sewage disposal systems in the Township of Chatham in order to ensure the proper operation and maintenance of such systems. This ordinance requires existing, new and proposed individual and non-individual subsurface sewage disposal systems to be pumped out every three years in order to minimize future malfunctions of such systems.
2. To regulate individual and non-individual subsurface sewage disposal systems in the Township of Chatham in such a way as to protect public health and welfare and the environment and to provide for a means of educating owners/operators, as defined herein, in the characteristics of such systems and the proper procedures for altering, operating and maintaining them.
3. To maintain records and manage systems in the Township of Chatham.

SECTION TWO: TITLE

This Ordinance shall be known as the Subsurface Sewage Disposal System Management Ordinance of the Township of Chatham.

SECTION THREE: DEFINITIONS

All definitions given in Subchapter 2 (N.J.A.C. 7:9A-2.1 et. seq.) of the New Jersey Department of Environmental Protection (NJDEP) Standards for the Construction of Individual Subsurface Sewage Disposal Systems, N.J.A.C, 7:9A-1.1 *et seq.*, and any amendments thereto ("NJDEP Regulations") are hereby incorporated into this article, with the following additions:

ACTIVE USE- For initial licenses, this term shall mean: "The use or direction of waste water to a system after the adoption date of this ordinance." For renewal licenses, this term shall mean: The use or direction of waste water to a system at any time during the period of the license."

BOARD OF HEALTH- The Board of Health of the Township of Chatham.

EDUCATION PROGRAM - An educational program prepared and administered by the Board of Health regarding the fundamentals of individual and non-individual subsurface sewage disposal systems and the proper procedures for the operation and maintenance of such systems. The educational program shall be deemed to be in accordance with N.J.A.C. 7:9A-3.14.

INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM- An individual subsurface sewage disposal system, as defined at N.J.A.C. 7:9A- 2.1, serving a single family detached residential housing unit.

LICENSED SEPTIC SLUDGE REMOVAL OPERATOR - Any person, firm or corporation who has been found qualified to pump out an individual or non-individual subsurface sewage disposal system, and who has been issued a license by the state of New Jersey Department of Environmental Protection.

NON-INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM - An on-site subsurface sewage disposal system serving a property other than a single family home. Such systems include but are not limited to those systems defined in N.J.A.C. 7:9A-1.8(c)2. Typical examples include but are not limited to: commercial buildings, restaurants, food establishments, commercial/residential mixed uses, and systems servicing multiple units.

OPERATOR'S LICENSE - A license issued to an applicant pursuant to this ordinance for the operation of an individual or non-individual subsurface sewage disposal system.

OWNER OR OPERATOR - The person who owns or leases the realty upon which an individual or non-individual subsurface sewage disposal system is located and/or the person who uses or operates said system. The owner of the realty and the operator of the system, if different, are jointly and severally liable for the obligations imposed by this ordinance.

PLOT PLAN - A sketch drawn by the owner/operator, or agent on their behalf, showing the type (if known) and location of the individual or non-individual subsurface sewage disposal system servicing the property, as well as the location and type of any on-site water supply. All plots shall be drawn to scale and list the dimensions used.

RETAIL FOOD ESTABLISHMENT – Means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption: 1. Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and 2. That relinquishes possession of food to a consumer directly, or indirectly, through a delivery

service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

SYSTEM - An individual or non-individual subsurface sewage disposal system, including all of the component parts thereof.

SECTION FOUR: SCOPE, APPLICABILITY AND EXEMPTIONS

- A. SCOPE.** The owner and/or occupant of any realty improvement serviced by an individual or non-individual on-site subsurface sewage disposal system located in the Township of Chatham shall be subject to all of the requirements of this section.
- B. APPLICABILITY.** No person within the Township of Chatham shall operate an individual or non-individual subsurface sewage disposal system unless such construction, installation, alteration, maintenance or operation is in accordance with all applicable sanitary regulations and this ordinance.
- C. EXEMPTIONS.** Any system not in active use shall be exempted from this Ordinance. The Board of Health may require an owner or operator of a system seeking exemption under this section to submit proof in the form acceptable to the Board so as to qualify for this exemption.

SECTION FIVE: LICENSE TO OPERATE

A. REQUIREMENT FOR LICENSE: No owner or occupant of a property in the Township of Chatham with an individual or non-individual subsurface sewage disposal system shall use or operate the system unless a currently valid license to operate the system has been issued by the Board of Health.

- 1. The Board of Health or its designee may issue a license to operate a system. Educational information relative to the proper operation and maintenance practices (pursuant to N.J.A.C. 7:9A-3.14) shall be provided to the owner or occupant of a property upon one or more of the following events:
 - a. Issuance of a certificate of compliance for a new system.
 - b. Issuance of a certificate of compliance for the alteration of a system.
 - c. Issuance of a renewal license for existing individual and non-individual sewerage disposal systems in accordance with the existing three year schedule.
- 2. All licenses issued pursuant to this section shall be on a form provided by the Board of Health. Once issued, a license shall be transferable upon change of ownership or occupancy of the premises for which the license has been issued. A fee as provided for in Section Eleven of this ordinance shall accompany each application for a license or renewal.

B. EXPIRATION/RENEWAL

The license to operate shall expire three (3) years after issuance. The Board of Health shall notify the licensee or its designee at least three months before the license expires and shall be directed to apply for a renewal of the license. Educational material relative to the proper operation and maintenance practice for such systems in accordance with N.J.A.C. 7:9A-3.14 shall be provided when the license is issued.

- 1. Requirements for Renewal: The Board of Health or its designee shall not renew the license unless the licensee has submitted the following to the Board of Health or its designee:
 - a. Evidence that the septic tank (or in the case of an alternate system, the comparable component of such system) has been pumped by a licensed septic sludge removal operator as required by Section Seven of this Ordinance. Following pumpout, the owner/operator shall submit to the Board of Health a completed pumpout report prepared and signed by the person performing the required work.
- 2. No evidence of septic tank pumping shall be required to accompany any application for a license for an entirely new system that has been in operation for less than 2 years at the time of the filing of the application.
- 3. Renewal Term: Any license renewed under Section 5B shall be renewed for a period of three years.
- 4. As a condition precedent to a license renewal, the owner/operator shall pay the fee required by Section Eleven herein.

C. SUSPENSION OF LICENSE: The Board of Health or its designee may suspend or revoke the license to operate in the following circumstances:

- 1. It has been determined that the system is malfunctioning based upon criteria provided for in N.J.A.C. 7:9A-3.4(a) and the licensee fails to take steps to correct said malfunction as directed by the Board of Health or its designee;
- 2. The owner or occupant of the premises served by the system violates any provision of this Ordinance with respect to operation and maintenance of the system; or

3. The owner or occupant of the premises served by the system denies the right of entry to the Board of Health or its designee, or to the New Jersey Department of Environmental Protection (NJDEP), as required in N.J.A.C. 7:9A-3.19, or in any way interferes with the administration or enforcement of this ordinance.

D. MODIFIED TERM OF LICENSE: The Board of Health may on its own motion, upon notice and opportunity to the property owner or operator for a hearing, or upon application of a property owner or system operator, alter the time period of a license to operate. The Board of Health may consider the following factors in determining that a more frequent licensing renewal or pumping/inspection schedule may be necessary:

1. Limited size of the septic tank or disposal field;
2. The fact that the existing system may be a cesspool;
3. The age of the system;
4. Past history of malfunction or other non-compliance;
5. Location of the existing system in a flood hazard, wetland area, wetland transition zone or other environmentally sensitive area as defined in (insert reference);
6. Proximity of the system to a well or water body.
7. The fact that the system is used by a retail food handling establishment.

The Board of Health may on its own motion extend the license renewal period from three to six years under certain conditions including, but not limited to, the following factors:

1. The number of people living in the residence.
2. The amount of time the residence is occupied.
3. The size of the septic tank.

SECTION SIX: STANDARDS ON THE USE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS

A. GENERAL

1. The subsurface sewage disposal system shall be used only for the disposal of wastes of the type and origin provided for in the approved engineering design. No permanent or temporary connection shall be made to any source of wastes, wastewater or clean water other than from plumbing fixtures which are normally present within the type of facility indicated in the approved engineering design.
2. Drainage from basement floors, footings or roofs shall not enter the sewage disposal system and shall be diverted away from the area of the disposal field.
3. As set forth in N.J.S.A. 58:10A-17, no person shall use or introduce or cause any other person to use or introduce into any sewage water disposal system any sewage system cleaner containing any restricted chemical material.
4. Disposal of materials containing toxic substances in the subsurface sewage disposal system is prohibited. Materials containing toxic substances include, but are not limited to, waste oil (other than cooking oil), oil based or acrylic paints, varnishes, photographic solutions, pesticides, insecticides, paint thinners, organic solvents or degreasers and drain openers.
5. Inert or non-biodegradable substances should not be disposed of in the subsurface sewage disposal system. Such substances include, but are not limited to, disposable diapers containing plastic, cat box litter, coffee grounds, cigarette filters, sanitary napkins, facial tissues and wet-strength paper towels.
6. Large quantities of cooking greases or fats shall not be discharged into systems not equipped with a grease trap designed and constructed as prescribed in N.J.A.C.7:9A-8.1.
7. Major plumbing leaks shall be repaired promptly to prevent hydraulic overloading of the system.
8. Vehicle traffic and vehicular parking shall be kept away from all aspects of the system, unless the system has been specifically designed to support vehicular traffic.

B. DISPOSAL FIELD MAINTENANCE

1. The area of the disposal field shall be kept free of encroachments from decks, pools, sprinkler systems, driveways, patios, accessory buildings, additions to the main building and trees or shrubbery whose roots may cause clogging of any part of the system.
2. Grading shall be maintained in a condition that will promote run-off of rainwater and prevent ponding.
3. All drainage from roofs, footing drains, ditches or swales shall be diverted away from the disposal field.
4. Vegetation shall be maintained to prevent soil erosion.
5. Vehicle traffic and vehicular parking shall be kept away from the area of the disposal field, unless the disposal field has been specifically designed to support vehicular traffic.

C. ABANDONED SYSTEMS

1. When it is necessary to abandon a system or components of a system, all septic tanks, dosing tanks, seepage pits, dry wells and cesspools which are to be abandoned shall be emptied of wastes

and removed or filled completely with sand, gravel, stones or soil material in a manner which is acceptable to the Board of Health or its designee.

2. When an individual or non-individual subsurface sewage disposal system is being abandoned and a connection is being made to the public sewer system, the plumbing subcode official shall ensure that the abandoned septic system and all of its component is disconnected from the building, pumped out and removed or filled with gravel, stones, or soil material.
3. Except when done as part of or in conjunction with an alteration or establishing a connection to the public sewer system, a permit must be obtained from the Board of Health prior to abandoning a septic system or component of a septic system.

D. ADDITIONAL INSPECTION AND MAINTENANCE REQUIREMENTS FOR SYSTEMS WITH GREASE TRAPS

1. Grease traps shall be inspected and cleaned out at a frequency adequate to prevent the volume of grease from exceeding the grease retention capacity. Grease shall be removed whenever seventy-five percent (75%) of the grease retention capacity has been reached.
2. Pumping of grease traps shall be performed by a solid waste hauler registered with the NJDEP in accordance with the requirements of N.J.A.C. 7:26-3.1
3. Equipment used in the pumping of grease traps shall meet the following requirements:
 - a. Mobile tanks shall be securely mounted on trucks or trailers, shall be watertight and provided with a leak-proof cover and shall be vented to permit the escape of gases but not the liquid or solid contents of the tank.
 - b. Pumps and hoses shall be maintained and operated in a condition that will prevent the leakage of sewage.
 - c. Equipment shall be available to permit accurate measurement of the volume of grease in relation to the grease retention capacity of the grease trap.
 - d. Pumping of grease traps shall be conducted in such a manner that the entire contents of the grease trap including both liquids and solids are removed.
 - e. Pumping shall be carried out in a manner that will prevent spillage of sewage onto the ground. If any spillage occurs, the solid portion shall be immediately removed and disposed of in a sanitary manner and the area of the spill shall be disinfected using a method acceptable to the Board of Health.
 - f. Grease and other waste materials removed from grease traps shall be disposed of in accordance with the requirements of the Statewide Sludge Management Plan adopted pursuant to N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 7:11A-1 et seq., as well as any other applicable State or local rules, regulations, ordinances or directives.

E. MAINTENANCE OF DOSING TANKS

1. Dosing tanks and associated pumps, siphons, switches, alarms, electrical connections and wiring shall be maintained in proper working order.
2. Any solids that accumulate in the dosing tank shall be removed and disposed of in a sanitary manner.

SECTION SEVEN: REMOVAL OF SEPTIC TANK SLUDGE

- A. The pumping of septic tanks shall be performed by a solid waste hauler registered with the NJDEP in accordance with the requirements of N.J.A.C. 7:26-1.1 et seq.
- B. Sewage shall be disposed of at a sewage treatment plant designated in accordance with District and/or State Solid Waste Management Plans pursuant to the Statewide Sludge Management Plan adopted pursuant to N.J.S.A. 13:1E-1 et seq. and N.J.S.A 58:IA-1 *et seq.*

SECTION EIGHT: APPEAL TO BOARD OF HEALTH

Any person aggrieved by any decision of a designee of the Board of Health made pursuant to this chapter shall have the right to appeal that decision to the Board of Health. Any aggrieved person seeking a hearing under this section shall make application to the Board in writing within 30 days of the decision to be appealed. The Board of Health shall schedule the matter for a hearing within 45 days thereafter. The hearing shall be conducted at a meeting held pursuant to the Open Public Meetings Act.

SECTION NINE: ENFORCEMENT

A. NUISANCES TO BE CORRECTED

1. Any on-site sewage disposal system or component thereof that is found to be malfunctioning (as defined in N.J.A.C. 7:9A-2A and 3.4) shall constitute a nuisance and shall be repaired, modified or replaced pursuant to an order of the Board of Health or its designee to correct the condition caused by the malfunction. Alterations shall be performed in accordance with "Standards for the

Construction of Individual Subsurface Sewage Disposal Systems" as adopted and implemented by the Board of Health by virtue of this Code and any amendments thereto.

2. Any individual or non-individual subsurface sewage disposal system which has not been maintained in accordance with N.J.A.C. 7:9A-12.3, Septic Tank Maintenance, is hereby declared a nuisance.
3. Any individual or non-individual subsurface sewage disposal system which is constructed, installed, altered, operated or maintained in violation of this section, the DEP Regulations, any rule or regulation promulgated pursuant to this ordinance or any permit, certificate or license issued pursuant to this ordinance is hereby declared to be a nuisance.
4. In addition the powers provided for in N.J.A.C. 7:9A-1.1 et seq., the Board of Health retains its authority to abate any nuisance in accordance with the provisions of N.J.S.A. 26:3-45 et. seq.

B. MALFUNCTIONING SUBSURFACE SEWAGE DISPOSAL SYSTEM: INSPECTIONS OF SYSTEM; REVOCATION OF LICENSE

1. The Board of Health shall have the right to inspect any system which shows evidence of any malfunction. Such evidence may include, but not be limited to, foul odors, leakage to ground surface, or soggy ground over the system. Water and/or soil samples may be taken to confirm the existence of a malfunctioning system.
2. The Board of Health may require that any malfunctioning system be corrected by servicing, replacing, or altering the system.
3. Until any necessary replacement or alteration of a system has been accomplished, the Board of Health may require pumping and the removal of the entire contents of the septic tank for the system (both liquids and solids) at intervals specified by the Board.
4. No provision of this Ordinance shall be interpreted as precluding the Board of Health from revoking a license issued by the Board for the operation of a system in the event that the Board shall determine that such action is necessary and appropriate for the enforcement of this Ordinance. Any such revocation shall be upon Notice to the owner/operator, with an opportunity to comment or appeal.

SECTION TEN: RIGHT OF ENTRY

In furtherance of the rights granted to the Board of Health in N.J.S.A. 26:3-45 et seq. and N.J.A.C. 7:9-3.19, the Health Officer or his designee, upon presentation of identification, shall have the right to enter upon property where an individual or non-individual subsurface sewage disposal system is located for the purpose of observation, inspection, monitoring and/or sampling of the on-site sewage disposal system. This authority is exercised by virtue of N.J.S.A. 26:3-31 as a necessary and reasonable method of furthering the duties of the Board of Health as enumerated therein.

SECTION ELEVEN: FEES

A. Renewal License: The fee to renew a license to operate a system shall be \$15.00 for three years. The next renewal date is August 31, 2010 and every three years thereafter.

B. Initial License: If an initial license is issued for a term of less than three years, the fee shall be \$5.00 for each 12-month period or any part thereof.

C. Delinquent application for a license: An application for a license or renewal which is filed up to thirty (30) days after the date upon which the license or renewal is required to be in effect shall be subject to a delinquent charge of \$10.00. Thereafter, violations and penalties pursuant to SECTION TWELVE may be assessed at the discretion of the Board of Health.

SECTION TWELVE: VIOLATIONS AND PENALTIES

A. Any person who shall violate any provision of this Ordinance, any person who shall use or operate an individual subsurface sewage disposal system in the Township of Chatham without a currently valid license to operate such system issued by the Board of Health, and any person who shall violate any order of the Board of Health issued pursuant to this Ordinance shall be subject to a fine not exceeding \$250.00 for each offense and an additional penalty of not more than \$100.00 for each day a particular violation continues after notice of the violation shall have been given to such person by the Board of Health. Such notices shall be served upon the owner(s) personally, or by leaving it at his or her usual place of abode with a member of the family of at least 18 years of age, or by sending it by registered or certified mail, return receipt requested, to the last known address of the owner as revealed by the Tax Rolls of the Township of Chatham.

B. The institution of a proceeding by the Board of Health to impose a penalty for a violation of a provision of this Ordinance shall not preclude the Board from the exercise of any other authority of the Board which may be necessary in order to eliminate or abate a public health nuisance.

SECTION THIRTEEN: REPEAL OF INCONSISTENT ORDINANCES.

All ordinances, codes or parts of same inconsistent with any of the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Ordinances BH-95-01 and BH-2-95 are hereby repealed and rescinded.

SECTION FOURTEEN: EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after adoption and publication of a Notice of Adoption in accordance with New Jersey law.

SECTION FIFTEEN: SEVERABILITY

In the event that any provision of this Ordinance or its application to any person is held invalid for any reason, such invalidity shall not affect any other provision of this Ordinance and to this end, the provisions of this Ordinance are severable.

Mr. Brown opened the Public Hearing on Ordinance BH-3-09.
Hearing no public comment, Mr. Brown closed the Public Hearing.

Mr. Nachtigal asked about the change to fees for a septic system operator's license. Mr. Brown pointed out that the penalty for non-compliance is the major change.

Mr. Brown moved to adopt Ordinance BH-3-09 amended as per the discussion. Mr. Nachtigal seconded the motion.

Roll call: Dr. Marano, Absent; Mr. Tubbs, Absent; Mr. Newby, Aye; Mr. Nachtigal, Aye; Mr. Brown, Aye.

Discussion

Professional Contracts

Mr. Brown said that it needs to be determined if the professional service contracts for the Board of Health should be approved and signed by the Board of Health, or if they will need to be approved by the Township Committee and signed by the Mayor. Mr. LaConte said that he would bring the matter to the attention of the Township Administrator for advice, and would report back to the Board of Health.

New Business

Septic Application – Block 139, Lot 10

Mr. Brown indicated that the septic application for Block 139, Lot 10 could not be discussed for approval at this meeting, as the applicant still needs to meet certain requirements. For example, based on the current engineering drawings, the next-door neighbor would need to be notified of the proximity of the proposed septic tank to the property line, since the location of the tank would be less than 25 feet. In order to have the tank in a spot where notice to the neighbor would not be necessary, trees would need to be removed, which the property owner is trying to avoid.

Mr. Brown moved to adjourn at 8:30 P.M. Mr. Tubbs seconded the motion and it carried unanimously.

Gregory J. LaConte
Deputy Clerk