

ARTICLE II  
**Management of Individual and Non-Individual Subsurface Sewage Disposal  
Systems**  
**[Adopted 5-14-2013 by Ord. No. BH 2013-01]**

(Ordinance No. BH 2013-01, codified herein, was adopted May 14, 2013.)

**§ 204-10. Purpose.**

In addition to the purposes set forth in N.J.A.C. 7:9A-1-1, it is the purpose of this Article:

- A. To establish a management program for individual and non-individual subsurface sewage disposal systems in the Borough of Mount Arlington in order to ensure the proper operation and maintenance of such systems. This Article requires existing, new and proposed individual and non-individual subsurface sewage disposal systems to be pumped out at least once every three years in order to minimize future malfunctions of such systems.
- B. To regulate individual and non-individual subsurface sewage disposal systems in the program area 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.
- C. To develop a management program to maintain records and manage systems in the program area.
- D. To promote and assure the proper management and maintenance of individual and non-individual sewage disposal systems through time.

**§ 204-11. Title.**

This Article shall be known as the Subsurface Sewage Disposal System Management Ordinance of the Borough of Mount Arlington.

**§ 204-12. Definitions.**

All definitions given in Subchapter 2 (N.J.A.C. 7:9A 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 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 Article." 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."

(Ordinance No. BH2013-13, codified herein, was adopted May 14, 2013.)

**BOARD OF HEALTH** — The Board of Health of the Borough of Mount Arlington.

**EDUCATIONAL INFORMATION** — Materials 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 information 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.

**LICENSE TO OPERATE** — A license issued to an applicant pursuant to this Article for the operation of an individual or non-individual subsurface sewage disposal system.

**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.

**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 Article.

**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.

**REGISTERED SEPTIC SLUDGE REMOVAL OPERATOR** — Any person, firm or corporation who has been registered by the New Jersey Department of Environmental Protection in accordance with the requirements of N.J.A.C. 7:26-3.2(a).

**RETAIL FOOD ESTABLISHMENT** — 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.

### **§ 204-13. 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 Borough of Mount Arlington shall be subject to all of the requirements of this chapter.
- B. Applicability. No person within the Borough of Mount Arlington area 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 Article.
- C. Exemptions. Any system not in active use shall be exempted from this Article. 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.

**§ 204-14. License to operate.**

- A. Requirement for license. On and after September 1, 2013 no owner or occupant of a property in the Borough of Mount Arlington upon which an individual or non-individual subsurface sewage disposal system is located shall use or operate the system unless a currently valid license to operate the system has been issued by the Board of Health in accordance with the schedule herein to the owner of the property on which the system is located.
  - (1) The Board of Health or its designee may issue a license to operate and educational information relative to the proper operation and maintenance practices (pursuant to N.J.A.C. 7:9A-3.14) to the owner and 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) For all existing individual and non-individual sewerage disposal systems in accordance with the following schedule: Ten per month.
  - (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 in Section 204-20 of this Article thereof shall accompany each application for a license or renewal. The initial application for a license shall include a plot plan showing the location of the septic system (both the tank and the disposal area) and of any private water source on the property. The plot plan shall also include the general location, if known, of any wells, and septic systems on adjoining properties.
- B. Expiration/renewal. The license to operate shall expire three years after issuance. The Board of Health shall notify the licensee or its designee at least 30 days before the license expires and shall be directed to apply for a renewal of the license. The renewal notice shall include educational materials relative to the proper operation

and maintenance practice for such systems in accordance with N.J.A.C. 7:9A-3.14.

- (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 204-16 of this Article; or
    - (b) Submission of a Septic System Inspection Report on a form approved by the Board of Health indicating that the system has been maintained, is not in need of pumping, and is functioning in conformance with the requirements of this chapter. Said form shall be prepared, completed and certified by:
      - [1] A septic installer approved by Board of Health;
      - [2] A NJDEP registered inspector;
      - [3] A NJDEP registered septic sludge removal operator;
      - [4] A licensed professional engineer;
      - [5] A licensed health officer or registered environmental health specialist;
    - (c) Any such inspection shall be conducted in accordance with "Technical Guidance for Inspections of Onsite Wastewater Treatment and Disposal System" NJDEP July 2003 or subsequent revisions.
  - (2) Renewal term. Any license renewed under this section shall be renewed for a period of three years.
  - (3) As a condition precedent to a license renewal, the owner/operator shall pay the fee required by Section 204-20 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 chapter 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 Article.

- 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) Proximity of the system to a well or water body.
- E. Special licensing provisions for retail food establishments. The license to operate for a retail food handling establishment shall expire one year after issuance. The owner of said establishment shall have the right to apply to the Board of Health for a longer license renewal period, but in no case shall the license renewal period exceed three years. In considering any such application the Board of Health may consider the establishment's demonstrated compliance history with management of the system.

#### **§ 204-15. 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, waste water or clean water other than those 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 into a 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 the 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) Except when done as part of or in conjunction with an alteration, 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 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.

**§ 204-16. Removal of septic tank sludge.**

- A. Prior to emptying, relieving or pumping out all or a portion of any individual or non-individual subsurface sewage disposal system within the Borough of Mount Arlington, the septic sludge removal operator shall obtain a septic sludge removal permit from the Board of Health.

- B. The registered septic sludge removal operator shall complete all information on the septic sludge removal permit and deliver one copy to the property owner and one copy to the Board of Health within 72 hours of the time that the individual or non-individual sewage disposal system is pumped. Failure to deliver said report within the required time frame shall be considered to be a violation of this Article.
- C. In addition to the permit required under subsection A above, the pumping of septic tanks shall be performed by a registered solid waste hauler registered with the NJDEP in accordance with the requirements of N.J.A.C. 7:26-3.2(a).
- D. Pumping of septic tanks shall be conducted in such a manner that the entire contents of the septic tank 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.

#### **§ 204-17. 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.

#### **§ 204-18. 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-2.1 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 Article or any permit, certificate or license issued pursuant to this Article is hereby declared to be a nuisance.



- (4) In addition the powers provided for in N.J.A.C. 7:9A, 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 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 or by replacement or alteration of 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 to this Article 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 Article. Any such revocation shall be upon notice to the owner/operator, with an opportunity to comment or appeal.

#### **§ 204-19. 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. 7:9A-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.

#### **§ 204-20. Fees.**

- A. Initial license: \$15.
- B. Renewal license: \$15.
- C. Septic sludge removal permit: hauler's license \$150.

#### **§ 204-21. Violations and penalties.**

- A. A person who violates any provision of this Article, or any term or condition of any certificate or license issued hereunder, shall be liable for one or more of the

following penalties [N.J.S.A. 40:69A-29(b)].

- (1) A fine of not less than \$100 or more than \$1,000.
  - (2) A period of community service not to exceed 90 days.
- B. Each separate day and each violation of any provision of this Article, any term or condition of any certificate or license or any notice or order issued by the Board of Health shall constitute a separate and distinct violation under this Article.
- C. Nothing in this section shall be construed as limiting the remedies of the Board of Health for violation of this Article. The Board of Health may proceed under any other remedy available at law or in equity for any violation of this Article or any term or condition of any certificate or license issued by the Board or Health or for any failure to comply with any notice or order issued by the Board of Health or its enforcement official under this Article.