

TOWN OF COLCHESTER SELECTBOARD
P.O. Box 55
Colchester, VT 05446

CERTIFICATE OF AMENDMENT

We, the Colchester Selectboard, hereby certify that pursuant to Chapter 1, Section 104 through 109, of the Colchester Town Charter, held a public hearing, and adopted the following amendment to Chapter 8 - On-Site Sewage Disposal and Potable Water Supply Regulations.

Bold – to be added
~~Strikethrough – to be deleted~~

Chapter 8 ON-SITE SEWAGE DISPOSAL AND POTABLE WATER SUPPLY REGULATIONS⁽¹⁾

Sec. 8-1. Short title.

This chapter shall be known as the Colchester On-Site Sewage Disposal and Potable Water Supply Regulations.
(Ord. of 2-24-04)

Sec. 8-2, Adoption of on-site wastewater disposal and potable water supply regulations.

(a) As of December 13, 2005, the Town of Colchester is a "Delegated Municipality" pursuant to the State Wastewater System and Potable Water Supply Rules, Subchapter 7-- Delegation (effective January 1, 2005). As such, the town will be issuing all permits required under the State Wastewater System and Potable Water Supply Rules in accordance with those rules. For the purposes of the state program the town has been delegated, the only exceptions under the state rules that will be recognized by the town are those for projects that qualified for them before the date of delegation **and the exemptions six through twenty-two as codified in Section 1-304 of the Environmental Protection Rules:**

(b) Except as specified in paragraph (a) of this section, permits will be required by the town for all projects except under the state rules.

(c) Notwithstanding the state delegation, all permits issued under the local permit program requirements of Colchester's Code of Ordinance--Chapter 8 continue to remain in effect unless or until they are amended under the state delegated program.
(Ord. of 2-24-04; Ord. of 6-17-07)

⁽¹⁾ **Editors Note:** An ordinance adopted on Feb. 24, 2004, deleted Ch. 8 in its entirety and reenacted a new Ch. 8, On-site sewage disposal and potable water supply regulations, to read as set out herein. Former Ch. 8 pertained to similar provisions and derived from Ord. of Dec. 28, 1999 and Ord. of May 17, 2000.

Sec. 8-3. Applicability of regulations.

No individual subsurface sewage disposal system, no shared or community subsurface sewage disposal system, shall be built, altered, or used except in accordance with these regulations, and only after a permit has been issued by the on-site sewage official.

Where a municipal sanitary sewer is not available for connection from a building, and a sewage treatment facility involving an effluent to waters of the state is not available, the building sewer shall be connected to a subsurface sewage disposal system complying with the provisions of these regulations and any other applicable regulations.

In the case of any other applicable regulations, by-law, ordinance or statute which differs from the requirements hereof, the more strict shall apply.
(Ord. of 2-24-04)

Sec. 8-4. Definitions.

For the purposes of this chapter, the following words shall have the meanings indicated unless their context clearly requires otherwise:

On-site sewage official means the legally designated on-site septic authority of the Town of Colchester or their authorized representative, as designated by the town manager. Additionally, under and pursuant to the authority granted by 24 V.S.A., Chapter 59 and 24 V.S.A. chapter 117 to "municipal officials," the on-site sewage official shall serve as the "municipal official" or "enforcement officer" for the town for the purpose of enforcing these on-site sewage and potable water supply regulations, and shall possess all the authority granted such official in the enforcement of said regulations. Town officers, upon being designated as deputy municipal officials by, and subject to the overall direction of, the on-site sewage official, shall serve as municipal officials and shall possess all the authority of a municipal official in the enforcement of said regulations.

Shoreline means the line defined by the intersection of the water level with those lands adjacent to Lake Champlain, Colchester Pond, and the Winooski and Lamoille rivers. Measurements required for isolation from the shoreline shall be made from the normal high water mark.
(Ord. of 2-24-04)

Sec. 8-5. Performance standards.

The purpose of these regulations is to prevent health hazards and environmental damage caused by the improper treatment and disposal of wastewater. Individual, on-site wastewater treatment and disposal systems shall be designed, constructed and operated so as to:

- (1) Prevent the creation of health hazards; and
- (2) Prevent surfacing sewage or the pollution or contamination of drinking water supplies, groundwater and surface water; and

- (3) Insure the provision of adequate drainage as related to the proper functioning of sewage disposal; and
- (4) Insure that facilities are designed and constructed in a manner which will promote sanitary and healthful conditions during operation and maintenance.

(Ord. of 2-24-04)

Sec. 8-6. Procedure for application for permit.

The application requirements are specified in section 1-302 of the "Environmental Protection Rules". The applicant may elect to submit the application on the municipal application form or to use the current Agency of Natural Resources, Department of Environmental Conservation, Waste Water Management Division (ANR DEC WWMD) application form.

If the ANR application form is used it must be accompanied by a cover letter stating that the document is being submitted for review by the town. It is the intent of the town to simplify the process so that one (1) identical application may be submitted for a parcel that currently requires approval from the town and the state.

In those cases where there is a lease parcel, the property owner is the applicant, the property owner or their duly certified representative must sign the application. The town may require a copy of the document certifying that a representative has the authority to sign for the parcel owner. The lease holder of the lease parcel may be a signatory party to the application under terms of the lease between these two (2) parties. From the state and town point of view, the property owner is the responsible party for the permitted on-site sewage disposal and potable water system.

No person shall design a potable water supply or wastewater system that requires a permit under this chapter without first obtaining a designer license from the Vermont Agency of Natural Resources.

All fees for permits shall be paid at the time of application in accordance with Chapter 6 ½ of the Colchester Code of Ordinances as permitted by Section 1-604 of the EPR.

(Ord. of 2-24-04)

Sec. 8-7. Innovative/alternative systems and products.

Only those innovative/alternative systems and products approved for use by the Vermont Agency of Natural Resources shall be eligible for use in the town.

(Ord. of 2-24-04)

Sec. 8-8. Land development.

Notwithstanding any other provisions set forth in the environmental protection rules, these regulations shall apply to all land development as defined as follows: "land development" means any change in the use of any building or other structure, any construction, reconstruction,

conversion, structural alteration, relocation or enlargement of any building or other structure, which alters or increases water and/or sewage flows.
(Ord. of 2-24-04)

Sec. 8-9. Potable water supply.

(a) A municipal potable water supply development permit is required prior to drilling or otherwise constructing a new potable water supply.

(b) All new potable water supplies must meet the technical construction standards of the Vermont "Water Supply Rules".

(c) Existing water supplies such as lake withdrawal, springs, dug wells, shallow drilled wells, and deep drilled wells that have been superceded by an approved potable water source such as a municipal water main connection or a drilled well are considered abandoned water supplies and will not be recognized as "protected water sources". Permit conditions will require that these sources be dismantled or sealed.

(d) Existing wells used for both domestic potable water consumption and for agricultural purposes such as livestock watering and irrigation that have been partially replaced by a new potable water source may continue in use if the property owner demonstrates that there are no cross connections between the systems.

(e) Under no circumstances may there be a cross connection between a municipal water main and any water supply, or water supply system, that is not under the control of the entity supplying the municipal potable water.

(f) Under no circumstances may there be a cross connection between an approved potable water supply and a non-approved potable water supply.

(g) Existing or new water supply systems that do not meet either the referenced technical standards or the municipal permit requirements will not necessarily receive regulatory acknowledgement or protection.
(Ord. of 2-24-04)

Sec. 8-10. Appeals.

Appeals in the case of the issuance of a ticket under section 8-14 below shall be governed by the provisions of 4 V.S.A. Chapter 29. All other appeals shall be governed by the following provisions:

- (1) An applicant that has been denied a permit or has been denied a portion of the initial request may appeal the on-site sewage official's decision to the select board.
- (2) An interested party may request that the on-site sewage official revoke an approved permit under section 8-13.

- (3) An interested party may request that the select board revoke an approved permit under section 8-13 if the party has first requested revocation under this subsection and is not satisfied with the ruling of the on-site sewage official.

(Ord. of 2-24-04)

Sec. 8-11. Inspection.

No underground piping, septic tank or leaching facilities shall be covered until they have been inspected and approved for covering by the on-site sewage official or their authorized agent. No building requiring subsurface sewage disposal facilities shall be occupied until such facilities have been certified by the on-site sewage official as being in compliance with these regulations. The on-site sewage official may waive the requirement for an inspection by his or her office.

The certification described in section 1-303(c) of the EPR is required unless the on-site sewage official provides a written waiver stating otherwise.

(Ord. of 2-24-04)

Sec. 8-12. Existing facilities.

Where a sewage system exists prior to the effective date of this regulation, and the on-site sewage official determines that it is creating a health hazard or health nuisance the on-site sewage official shall advise the owner (or lessee) of the inadequate sewage system and, when necessary, shall issue a written order for compliance with these regulations. The owner (or lessee) shall submit a proposed modification to the system to the on-site sewage official for review and approval, in accordance with the application procedure outlined in these regulations.

(Ord. of 2-24-04)

Sec. 8-13. Revocation of permits.

(a) A disposal system permit may be revoked by the on-site sewage official for any of the following reasons:

- (1) False, fraudulent, or misleading information contained in the permit application;
- (2) Installation of a system which does not comply with the conditions of the permit;
- (3) Alteration of the proposed septic system site or replacement areas including effluent dispersion areas so that the proposed septic system does not comply with this section;
- (4) Information which shows the proposed septic system will not comply with this section, including, but not limited to, insufficient isolation distances to water supplies; or
- (5) Failure to comply with this section or any terms or conditions of permits issued under this section.

(b) Petition for revocation. A written petition for revocation shall be addressed to the on-site sewage official and shall set forth the name and address of the petitioner, the petitioner's interest in the matter, and a brief statement outlining the basis for revocation of permit. Revocation shall only proceed based on the standards established in subsections (a)(1)--(5).

The municipality may file a petition and participate in revocation proceedings.

The select board shall notify the permit holder in writing of petition for revocation of permit within seventy-two hours (72) hours of receiving the petition for revocation. All sewage disposal system work must cease immediately upon notification of petition for revocation. Town officials may allow certain items of work to continue in order to protect an exposed area from the effects of freezing or erosion, or to protect the health and safety of the public.

(c) Receipt of the petition shall initiate the revocation procedure. The select board shall hold a hearing within thirty (30) days of the on-site sewage official receiving a revocation petition. The select board shall render a decision within fifteen (15) days of the conclusion of the hearing.

(d) The on-site sewage official shall give the permit holder written notice of revocation of the permit within seventy-two (72) hours of revocation. All sewage disposal system work must cease immediately upon notification of revocation of permit.

(e) The revocation will be held as a contested case per 3 V.S.A. Chapter 25. (Ord. of 2-24-04)

Sec. 8-14. Penalty for violations.

A violation of these regulations shall constitute a civil ordinance violation. Each day that a violation continues shall constitute a separate offense. Offenses may be prosecuted through the issuance of a municipal civil complaint ticket or the commencement of an enforcement action as described below.

- (1) *Municipal civil complaint ticket.* Pursuant to 24 V.S.A. Chapter 59 and 4 V.S.A. Chapter 29, any designated enforcement officer, as referenced in Appendix B, section 1902, may commence prosecution for any zoning violation by serving two copies of a municipal civil complaint ticket either in person or by first class mail on the alleged offender, and thereafter promptly filing the original with the judicial bureau. The issuing officer shall follow the procedure set forth by the judicial bureau for municipal complaint tickets. The first offense ticketed for a violation shall be punishable by a fine of one hundred dollars (\$100.00), the waiver fee shall be fifty dollars (\$50.00); a second offense ticketed for the same violation shall be punishable by a fine of two hundred dollars (\$200.00), the waiver fee shall be one hundred dollars (\$100.00); a third offense ticketed for the same violation shall be punishable by a fine of five hundred dollars (\$500.00), the waiver fee shall be two hundred and fifty dollars (\$250.00). Upon the fourth offense, the town may request that the case be transferred from the judicial bureau to the environmental court, or any other court of competent jurisdiction.

- (2) *Enforcement action under 24 V.S.A. Chapter 117.* An enforcement action may be brought under 24 V.S.A. Section 4444 for any violation of this ordinance. Pursuant to an enforcement action, any person who violates this article shall be fined not more than one hundred dollars (\$100.00) for each offense. No action may be brought under this subsection unless the alleged offender has had at least seven (7) days' warning notice by certified mail. An action may be brought without the seven (7) day notice and opportunity to cure if the alleged offender repeats the violation of the by-law or ordinance after the seven (7) day notice period and within the next succeeding twelve (12) months. The seven (7) day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven (7) days and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven (7) days. In default of payment of the fine, such person, the members of any partnership, or the principal officers of such corporation, shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of these regulations shall be paid over to the town.

(Ord. of 2-24-04)

DATED this 24th day of July, 20012. EFFECTIVE the 24th day of September, 2012.

COLCHESTER SELECTBOARD

L. Richard Paquette

Marc Landry

Nadine Scibek

Herbert J. Downing

Kathrine R. Niquette