



Monmouth County Regional Health Commission #1

ORDINANCE 2015-11

AN ORDINANCE OF THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION #1 (MCRHC) AMENDING "THE SANITARY CODE – N.J.A.C. 7:9A "Standards for Individual Subsurface Sewage Disposal Systems ".

BE IT ORDAINED BY THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1, CREATED AND OPERATING UNDER N.J.S.A. 26:3-83 ET SEQ., AND THE SEVERAL ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO AND COMPRISED OF THE BOARDS OF HEALTH OF THE BOROUGHES OF ALLENHURST, BRIELLE, DEAL, FAIR HAVEN, HIGHLANDS, INTERLAKEN, LITTLE SILVER, LOCH ARBOUR VILLAGE, MONMOUTH BEACH, RED BANK, RUMSON, SEA BRIGHT, SEA GIRT, SHREWSBURY, SPRING LAKE, SPRING LAKE HEIGHTS, TINTON FALLS, AND WEST LONG BRANCH, AND THE TOWNSHIPS OF MIDDLETOWN, OCEAN, AND WALL, EACH AND ALL IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, THAT:

ARTICLE I. GENERAL

1. Section 1. Title of Ordinance.

This ordinance and all revisions and amendments thereto shall constitute and be known as "the Sanitary Code of the Monmouth County Regional Health Commission #1", which is being adopted, pursuant to N.J.S.A. 26:3-92, et seq. The provisions of this ordinance shall be applicable to the municipalities covered by MCRHC.

Adoption by Reference.

(a) A code regulating the location, design, construction, installation, alteration, operation and maintenance of individual subsurface sewage disposal systems is hereby adopted pursuant to Chapter 186, P.L. 1950 (N.J.S.A. 26:3-69 to 69.6). A copy of the code, as amended hereby, is annexed hereto and made part of this chapter without specific inclusion of text herein.

(b) Title of Code.

The code established and adopted by this chapter, by reference, is described and commonly known as "Standards for Individual Subsurface Sewage Disposal Systems," as amended by the MCRHC, as hereinafter provided, and as may hereinafter be further amended. The code hereby adopted is set forth in the New Jersey Administrative Code and is cited as follows: N.J.A.C. 7:9A-1.1 et seq. "Standards for Individual Subsurface Sewage Disposal Systems"; however, amendments approved and adopted by the MCRHC to such code, as hereinafter provided, are not set forth in the New Jersey Administrative Code.

(c) Public Record.

Three copies of the "Standards for Individual Subsurface Sewage Disposal Systems," as herein approved and amended, have been placed on file in the office of the MCRHC for the use of and examination by the public.

(d) Professional Review of Site Data.

The MCRHC may submit data filed with it by an applicant for system, site, and/or design approval to a Professional Engineer, soils specialist or other duly qualified professional (as determined by the MCRHC) when an ambiguity or discrepancy in the soil evaluation data exists, when the proposed system is highly engineered or otherwise requires a highly technical review, or when the authorized agent certifies to the MCRHC that he or she is unable to conduct a review of the data because the system proposed is beyond the scope of his or her knowledge, expertise, or experience. The cost of the professionals' review will be the responsibility of the applicant and final action upon the application by the MCRHC shall be deferred until said fee has been paid to the MCRHC.

2. Section 2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Person shall mean any person either in the singular or plural, including any partnership, corporation or association.

(b) State Sanitary Code shall mean the New Jersey State Sanitary Code as enacted by the Department of Health, State of New Jersey.

(c) Registered Environmental Health Specialist shall mean the New Jersey State licensed inspector who is the authorized agent for the MCRHC.

3. Section 3. Revocation, Renewal and Suspension of a Septic Permit.

Whenever the holder of any permit under the provisions of this ordinance shall be deemed to be in violation of any of the provisions of said ordinance, or any of the rules or regulations promulgated by the MCRHC pursuant to said ordinance, the Health Officer may, following a hearing and for good cause shown, revoke such permit. No such revoked permit shall be renewed or restored until the Health Officer is satisfied that all of the provisions of this ordinance have been complied with and that the reason for the suspension has been abated.

4. Section 4. Display of Permits.

Permits issued by the MCRHC shall be displayed at all times in plain view upon the premise for which they were issued. Every holder of a permit or certificate shall, upon demand, exhibit same to the Health Officer or an authorized agent.

5. Section 5. Refusal to Comply with Ordinance.

In the event any person shall refuse or neglect to abate any foul, obnoxious or harmful matter or thing, or if any person shall refuse or neglect upon notice to abate any nuisance or refuse or neglect to comply with any of the provisions of this ordinance or other directive duly issued by the MCRHC, then the MCRHC shall be empowered as provided for under the New Jersey State Statutes pertaining to Boards of Health to take immediate steps to abate said nuisance, source of foulness, cause of sickness or to enforce any provisions of this ordinance which the MCRHC deems to be in the best interest of public health and

safety. The person in violation shall be responsible for all of the reasonable expenses incurred by the MCRHC in its effort to abate or remove the condition which is deemed to be a health hazard.

6. Section 6. Appeals to the MCRHC.

(a) Scope.

When any provision of this Code permits an appeal to the MCRHC from a decision of the Health Officer or designee, or permit denial by the MCRHC, the procedures set forth in this section shall apply. The MCRHC will receive and consider only those appeals which are filed in accordance with the provisions of this Code which specifically authorize the filing of appeals.

(b) Appeal Procedures.

An appeal shall be commenced by the filing of a written notice of appeal filed with the Health Officer no more than fourteen (14) days after the date of the decision or determination being appealed. The appeal of the decision or determination shall be considered by the MCRHC at its next regularly scheduled meeting, unless the appellant consents to a later date; provided, however, that if the regularly scheduled meeting occurs less than fourteen (14) days after the filing of the notice, the appeal shall be considered at the following regularly scheduled meeting. At the hearing of an appeal, the appellant and the MCRHC designee who made the decision or determination being appealed (or the MCRHC itself, if applicable) shall present evidence in support of their positions and the MCRHC shall have the right to ask questions of the appellant or any of the appellant's representatives, any of the MCRHCs designees, and any other such persons whose opinion or advice the MCRHC deems would be of assistance in rendering a decision. The hearing shall be chaired by the President, and the Rules of Evidence shall not apply. The decision of the MCRHC shall be made no later than the next regularly scheduled meeting, and shall be final.

(c) Emergency or Hardship Appeals.

In the event an appellant seeks immediate resolution of an appeal due to a claim of hardship or other emergency, the appellant shall include with the notice of appeal a detailed explanation of the hardship or emergency, along with three requested hearing dates. In such cases, the MCRHC President in consultation with the Health Officer, may, in the President's discretion determine that there is a hardship or emergency which would require waiver of the time frames set forth in subsection 10(b). In such case, the MCRHC Chair may appoint a subcommittee of three (3) members of the MCRHC to hear the appeal in an expedited manner. If the MCRHC Chair appoints himself/herself to the subcommittee, the Chair shall chair the hearing; if the MCRHC Chair does not serve on the subcommittee, the Chair shall appoint one (1) of the three (3) members as chair. The proceedings shall be conducted in the same manner as set forth in subsection 10(b); however, the subcommittee may, in its discretion, take any steps it deems necessary to expedite the consideration and decision of the matter appealed. The decision of the subcommittee shall be by majority vote and shall be final.

ARTICLE II. Amendments to the Code

1 Section 1. Amendments to Code.

The "Standards for Individual Subsurface Sewage Disposal Systems," cited as N.J.A.C. 7:9A-1.1 et seq., is hereby adopted by the MCRHC with amendments as set forth below:

(a). N.J.A.C. 7:9A-1.6 General Prohibitions is amended by the addition of subparagraph (m):

(m) The installation or replacement of garbage grinders is prohibited.

(b). N.J.A.C. 7:9A-2.1 Definitions is amended as follows:

As-built means a drawing (8.5 x 14 inches) to scale of a plot plan made by a licensed land surveyor, signed and sealed certifying to the location, configuration, and exact tie-down measurements of all the subsurface sewage disposal system components after the installation of such has been completed.

Completed septic system means a properly located, constructed and installed septic system that has been connected to the source of the wastewater.

Installer is any person who is in the business of installing or excavating individual subsurface sewage disposal systems or any parts thereof.

Source of the wastewater shall mean a house, building, or realty improvement that generates sanitary sewage, or is capable of generating sanitary sewage.

2. Section 7:9A-3.5 Permit to Construct or Alter, is amended by the addition thereto of the following subparagraphs:

(a) Permits and Approvals in General. No person shall locate, construct, or alter a subsurface sewage disposal system until a permit for the location, construction or alteration of such system shall have been issued by the MCRHC, or its duly authorized agent. Permits shall be issued only after the appropriate approvals have been granted by the MCRHC. Permits to construct or alter an individual sewage system shall be valid for one year from date of issuance. The MCRHC, on recommendation of the Health Officer, may grant in writing an extension of time not to exceed one year for good cause shown. The individual sewage system shall be constructed and put into use during the time frame of the permit. Thereafter, a new permit will be required and must be issued in accordance with the provisions of this section.

Permits may be issued only on the basis of tests taken within the previous twelve calendar months, except that the MCRHC may grant in writing an extension of time not to exceed six months if in its judgment the results of the test are still valid.

(c) 3(ix) Location of all soil profile pits, soil borings and permeability tests, including all tests outside of the area of the proposed system and any abandoned test sites.

(c.1) Approval of System Design - Prior to the MCRHC's design review the application shall submit a site specific detailed engineering design, a completed application form, and checklists which will be provided by the MCRHC, the required fee for design review and permit issuance, together with any other information deemed necessary by the MCRHC's authorized agent to aid in the MCRHC's design review. Following review, the Health Department shall approve, approve with modifications, or reject the application. The authorized agent shall forthwith either issue or deny the permit.

(d.1) Conditions on Approvals - The MCRHC, in its discretion, may attach reasonable conditions to any approval granted, to insure that the purposes of this ordinance are achieved. Fulfillment of the conditions attached to the approval shall be a condition precedent to subsequent MCRHC approvals and/or permit issuance.

(e.1) Validity of Approvals - Approvals granted subsequent to the effective date of this Amendment, shall remain valid until the State Code changes as to render the approval invalid or to require that the septic system be altered in such a way as to make it in compliance with the current State code.

3. N.J.A.C. 7:9A-3.6 (Witnessing of Soil Evaluation and Testing) is amended with the following addition:

(c) In the event of a waiver of the requirement for witnessing of soil evaluation or testing procedures which are identified in (a) above, the MCRHC will direct a MCRHC employee with at least three years of experience in such observation under the supervision of a Registered Environmental Health Specialist or licensed Health Officer, and successful completion of approved continuing education courses in septic/soil science, to observe soil evaluations and testing procedures. These observations shall be noted in writing and reported to the MCRHC's Registered Environmental Health Specialist and/or Health Officer.

4. N.J.A.C. 7:9A-3.13 (Certificate of Compliance) subparagraph is amended to read as follows:

(a) The MCRHC may issue a certificate of compliance if a licensed professional engineer submits to the MCRHC, a statement in writing, signed and sealed by him or her that the said system has been located, constructed, installed or altered in compliance with the requirements of these standards and the approved engineering design. Prior to the issuance of a certificate of compliance, the MCRHC shall require that the septic system design engineer submit to the MCRHC a signed statement in writing or on forms provided by the MCRHC that the completed septic system has been located, constructed and installed or altered in compliance with these standards and the approved engineering design, together with two as-built plans (see definitions) (as-built plans shall be 8.5 x 14 inches in size). For septic systems that have been altered, the design engineer shall submit two copies each of the select-fill percolation tests, select-fill textural analysis, select-fill tube permeameter tests, as-built plans and the Engineer's Certificate of Compliance form within thirty days of completion of the alteration.

(d) A person shall not commence operation or use of an individual subsurface sewage disposal system until a certificate has been issued by the administrative authority or its authorized agent indicating that said system has been located, constructed, installed or altered in compliance with this chapter. The certificate of compliance will not be issued until such time as the licensed professional engineer who prepared the system design has submitted a Septic Construction Documentation Form and an as-built plan which shows a surveyed location for the final installation. An as-built plan for existing buildings must be submitted within 10 days of completion of construction of the septic system. The issuance of a certificate of compliance shall constitute only certification that the individual subsurface sewage disposal system has been constructed, located, installed or altered in conformance with this chapter. It shall not be construed as a guarantee that the system will function satisfactorily, nor shall it in any way restrict the powers or responsibilities of the MCRHC in the enforcement of any law or ordinance relating to public health and safety or environmental protection.

5. N.J.A.C. 7:9A-3.16 (Prior Tests) subparagraph (a) is amended to read as follows:

(a) All field site evaluation test results and data, including but not limited to percolation test results, soil log test results, pit bail test results, basin flood test results and other tests required by the MCRHC may be used as design criteria for subsurface sewage disposal systems, if such tests were conducted within the twelve months immediately preceding the date of submission of the application for site approval for a subsurface sewage disposal system. Site evaluation tests conducted more than twelve months before the date of application for site approval may be used as design criteria for subsurface sewage disposal systems, if there have been no subsequent changes in this Code with respect to the testing procedures or data in question between the date the field work was conducted and the date the application for site

approval was submitted or if there has been no significant land disturbance where the subsurface sewage disposal system is to be located.

6. N.J.A.C. 7:9A-3.20 (Hearing Procedures) is amended to read as follows:

(a) In case any permit, certification or determination required by this chapter is denied by the MCRHC, a hearing shall be held concerning such denial before the MCRHC within thirty days after the receipt of a written request has been made by the applicant or aggrieved party. The applicant or aggrieved party shall have fifteen days from the date of the denial to request such a hearing. Upon such hearing the MCRHC shall affirm, alter or rescind the determination from which the appeal is taken. The MCRHC shall state, on the record, the reasons for any action taken at such hearing. In the event that the MCRHC determines to alter or rescind the previous determination, action pursuant to such MCRHC determination shall be taken within thirty days after the date of such hearing. The times set forth herein may be extended or otherwise altered by mutual consent of the applicant or aggrieved party and the MCRHC.

7. N.J.A.C. 7:9A-4.2 (Location Generally) is amended by the addition thereto of the following subparagraph:

(c) On those sites where observed limiting zones dictate that a mounded disposal field or a mounded soil replacement disposal field must be utilized, it shall be the responsibility of the engineer to test thoroughly all areas of the proposed site so that the MCRHC can be reasonably satisfied that the contemplated design submitted for approval utilizes a disposal field which has the lowest possible profile above existing grade that is consistent with the MCRHC's goal of achieving the best system possible for the protection of the public's health, safety, and welfare given the observed limitations at the site.

8. N.J.A.C. 7:9A-6.1 (General Provisions for Permeability Testing) is amended by the addition thereto of the following subparagraph:

(a) When the select fill has been emplaced and compacted in the disposal field, the engineer shall perform a permeability test in the top fourteen (14) inches of the emplaced and compacted fill. This test shall be observed by an authorized representative of the MCRHC. The type of permeability test performed shall be determined by the engineer.

9. N.J.A.C. 7:9A-7.2 Construction is amended by the addition thereto of the following subparagraphs:

(c) No person shall perform the services of an installer unless he shall have registered as an installer with the MCRHC. Application for registration shall be on forms prescribed by the MCRHC. If at any time after a person has registered as an installer with the MCRHC, the information previously supplied to the MCRHC in connection with obtaining that registration shall have changed, the installer shall properly notify the MCRHC of the change and provide it with the correct information.

(d) A septic installer's registration shall be revoked by the Health Officer for failure of the installer to comply with the provisions of this chapter. An installer will be notified of the specific actions or items that are in noncompliance within fourteen working days of the violation. The installer will be given the opportunity to address or answer the specific charges at an informal hearing with the Health Officer. Upon determining that the charges are valid and supported by evidence, the MCRHC may revoke, suspend, write a summons, place on probation, or take any action which is permitted by State and local laws. The following items set forth below constitute the terms and conditions upon which an installer's registration will be reinstated:

1. The company or installer will be required to provide a certificate of insurance for a period of one year from the date of agreement between the installer and the MCRHC or Health Officer. This certificate must name the MCRHC as an additionally insured entity in the event of any claim for damages or defects to the

septic systems installed or repaired by the company or installer. The insurance coverage shall be subject to review and approval by the MCRHC. The cost of the review of the insurance coverage will be the responsibility of the company or installer.

2. Prior to reinstatement, a detailed plan of the company's installation procedures shall be submitted to the Health Officer for review and approval. Upon completion of items (1), (2) and a written agreement, certifying compliance with the requirement of this section, a temporary one year registration as a septic installer shall be issued.

3. All subcontractors that a company or installer may use must be registered with the MCRHC.

4. If there are any Code violations observed, reported to the MCRHC and verified, during the one year period mentioned above, the company or installer may be permanently removed from the list and prohibited from performing septic work in the towns under MCRHC jurisdiction.

5. If the Health Department determines that there has been violation(s) by the company or installer on lots or properties predating the start of the one year period, any such violation(s) must be fully corrected within sixty calendar days after written notification from the MCRHC. Noncompliance may lead to permanent revocation. In the event violations are determined as set forth in paragraphs three (3) and four (4) above and/or in this paragraph five (5), and before any action is taken by the Health Officer, the company or installer will have the opportunity to refute any violations or alleged violations. It is the duty of the MCRHC to safeguard the public from practices by septic installers which may not be in the interest of the public health, safety and welfare. The quality of all septic installations and repairs must be consistent with State and local codes.

ARTICLE III. GENERAL PENALTIES; CONTINUING VIOLATIONS.

1. Section 1. Penalties.

Any person violating any of the provisions of this chapter adopted by the MCRHC shall, upon conviction thereof, pay a penalty of not more than fifty thousand (\$50,000.00) dollars for each violation under N.J.S.A. 58:10A-1 et seq of the Water Pollution Control Act and the violator shall be subject to assessment of civil administrative penalties pursuant to the provisions of N.J.A.C. 7:14-8. Complaint shall be made in the municipal court or before another judicial officer having authority under the laws of the State of New Jersey. The court shall have the power to impose other and additional penalties provided by N.J.R.S. 26:3-77 and N.J.R.S. 26:3-78. Violations of any provision of the New Jersey State Sanitary Code are subject to and consistent with the penalty provisions of N.J.S.A. 26:1A-10 (penalty of not less than fifty (\$50.00) dollars, nor more than one thousand (\$1,000.00) dollars for each offense).

(b) Separate Violations.

Each day any violation of this ordinance of any rule, regulation or order promulgated pursuant thereto shall continue, shall constitute a separate offense.

(c) Collection of Fees and Penalties.

All fees and penalties collected under any provision of any chapter adopted by the MCRHC shall be paid to the Treasurer of the MCRHC. Whenever any fine is imposed upon any corporation, such fine and cost and charge incident thereto may be collected in any action of debt or in such other manner as may be provided by law.

ARTICLE VIII. REPEALER.

1. Section 1. Repealer.

All ordinances and regulations of the MCRHC that are inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

ARTICLE IX. SEVERABILITY.

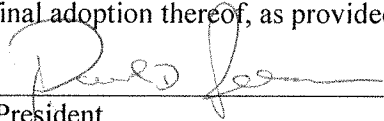
1. Section 1. Severability

In the event that any section, sentence, or clause of these articles shall be declared unconstitutional, unenforceable or otherwise invalid by a court of competent jurisdiction such determination shall not prejudice the enforcement of the remaining provisions.

ARTICLE X. EFFECTIVE DATE.

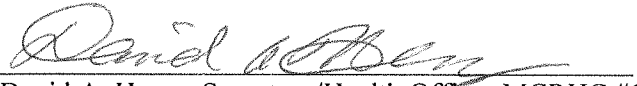
1. Section 1. Effective Date.

This ordinance shall take effect (30) thirty days after the final adoption thereof, as provided for by law.



Paul D. Roman, President
Monmouth County Regional Health MCRHC #1

Vote: Ayes 9
Nays 0
Abstain 0


David A. Henry, Secretary/Health Officer MCRHC #1

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Public Hearing and Adoption: October 27, 2015
Second Publication: November 6, 2015