

CHAPTER 19

ORDINANCE REGULATING SUBSURFACE WASTEWATER DISPOSAL

I. Authority

This Ordinance is enacted pursuant to the authority of 30-A M.R.S.A., Section 4211 and 30-A M.R.S.A., Section 3001.

II. Purpose

The purpose of this Ordinance is to protect the quality and quantity of groundwater in the Town of Freeport, since residents depend upon this resource for drinking water, and to protect the quality of waterbodies such as lakes, streams, rivers, wetlands and tidal waterbodies.

III. Construction and Application

This Ordinance is supplemental to the State of Maine Subsurface Wastewater Disposal Rules promulgated by the Department of Human Services Division of Health Engineering, as such may be amended from time to time, hereinafter called the State Plumbing Code. This Ordinance establishes minimum requirements for subsurface wastewater disposal within the Town of Freeport. Whenever the State Plumbing Code imposes a greater or more restrictive requirement, the State Plumbing Code requirement shall govern. Whenever this Ordinance imposes a greater or more restrictive requirement, this Ordinance shall govern. In no event shall this Ordinance be construed to be less restrictive than the State Plumbing Code.

IV. Administration

This Ordinance shall be administered and enforced by the Local Plumbing Inspector of the Town of Freeport.

V. Definitions

Unless otherwise specified in this Ordinance, all terms used in this Ordinance shall have the same meanings as in the State Plumbing Code.

VI. Minimum Distance Between Subsurface Wastewater Disposal System and Well; Certain Variances Prohibited

A. One Hundred Foot Separation Required

1. Unless otherwise authorized by this Ordinance, a minimum distance of 100 feet shall be maintained between any well and any subsurface wastewater disposal system ("system"), except in the case of systems which are in existence on the effective date of this Ordinance and are not malfunctioning on the effective date of this Ordinance or anytime thereafter.

2. Variances Prohibited - No variance shall be permitted from the 100 foot minimum separation requirement of Subsection A of this Section VI except as specifically allowed by this Ordinance.

B. Malfunctioning Subsurface Wastewater Disposal Systems
or Polluted or Insufficient Wells

1. In the event of a malfunction of an existing system, the malfunctioning system shall be replaced with a new system which is located a minimum distance of 100 feet from any existing well except as otherwise provided in Subsection B (2) of this Section VI. Whenever any well must be replaced due to insufficient water quantity or unacceptable water quality ("failed well"), the replacement well must be located a minimum distance of 100 feet from any existing system, except as otherwise provided in Subsection B (2) of this Section VI.
2. In the event that a malfunctioning system or failed well cannot be relocated in compliance with the 100 foot distance required by Subsection A of this Section VI, then as large a separation as possible shall be maintained, in no event less than the existing separation, and the following conditions shall apply:
 - (a) Where a system is being replaced, a separation of less than 100 feet from any well may be allowed only after on-site inspection and certification by a Licensed Site Evaluator that no other location for a system is possible. The local Plumbing Inspector may request an on-site inspection by the Department of Human Services' State Site Evaluator. The Local Plumbing Inspector shall evaluate the certification and determine whether or not another location is possible.
 - (b) Where a failed well is being replaced, a separation of less than 100 feet from any system may be approved only after on-site inspections by the Local Plumbing Inspector and a well driller, and written certification from both that a reasonable attempt has been made to find a well site that meets the requirements of this Ordinance.
 - (c) In determining whether or not there is a possible conforming location for a replacement system or well, the Local Plumbing Inspector may request documentation from the applicant that the applicant has explored any reasonable opportunities to acquire easements in abutting property or to acquire additional land in order to comply with the 100 foot separation requirement, and that no such acquisition is feasible.

- (d) If a separation of less than 100 feet is approved, or if the replacement system requires a variance, the Local Plumbing Inspector may require that low flow fixtures may be required to be installed in the structure or structures served by the system.

VII Violations and Penalties

Any person who violates any provision of this Ordinance commits a civil violation and is subject to civil penalties as provided in 30-A M.R.S.A., Section 4506. The Town of Freeport may also enjoin any violation or threatened violation of the provisions of this Ordinance.

VIII Finality of Decisions

Decisions made by the Licensed Plumbing Inspector pursuant to the administration this Ordinance may be appealed to the Zoning Board of Appeals of the Town of Freeport according to the procedures outlined in Section 601 of the Freeport Zoning Ordinance.