

ORDINANCE: GOVERNING ONSITE WASTEWATER TREATMENT SYSTEM PUMP-OUT AND INSPECTION WITHIN WATERSHED PROTECTION OVERLAY DISTRICT:

SECTION I: AUTHORITY:

The Town of Windham hereby adopts this Ordinance under the provisions of RSA 31:39 (I) (f) regarding onsite wastewater treatment system pump-out and inspection within the Watershed Protection Overlay District for the purposes of collection and removal of waste material. This ordinance is in addition to TOWN OF WINDHAM, NEW HAMPSHIRE # WIN 2:06:22:06 Septic Regulations and any applicable rules promulgated by the New Hampshire Department of Environmental Services ("NH DES") and State laws.

SECTION II: PURPOSES:

Water quality sampling conducted by the State of NH, through the Volunteer Lake Assessment Program (VLAP), indicates that increasing concentrations of nutrients exist at multiple locations within Cobbetts Pond, Rock Pond, and Canobie Lake (hereinafter the "water bodies"). These nutrients contribute to reduced water quality and increased growth of aquatic weeds and algae in these water bodies restricting the recreational uses of them by town residents.

This ordinance is necessary to help protect the surface water quality of water bodies by requiring timely pumping and maintenance of Onsite wastewater systems (septic tanks, holding tanks & leach fields). The purposes of this ordinance are:

1. To establish a management program for Onsite wastewater systems (septic tanks, holding tanks & leach fields) in the Watershed Protection Overlay District to promote proper operation of Onsite Wastewater Treatment Systems. This ordinance requires septic tanks to be pumped out and inspected at least once every three years to minimize malfunctions of Onsite Wastewater Treatment Systems.
2. To manage Onsite Wastewater Treatment Systems in the Watershed Protection Overlay District in such a way as to protect water quality, public health, and the environment. It also provides a means of educating owners/operators in the characteristics of such systems and the proper procedures for altering, operating, and maintaining them.
3. To develop a program that establishes and maintains records of Onsite Wastewater Treatment Systems in the Watershed Protection Overlay District.
4. To promote and assure the proper management and maintenance of Onsite Wastewater Treatment Systems over time.

This ordinance promotes the adequacy of Onsite Wastewater Treatment Systems in the Watershed Protection Overlay District thereby improving the water quality of water bodies in Town. This ordinance is in addition to any applicable rules promulgated by the New Hampshire Department of Environmental Services ("NH DES") and State laws.

SECTION III: APPLICABILITY:

This ordinance applies to all Onsite Wastewater Treatment Systems located wholly or in part within the Watershed Protection Overlay District as enacted under the Windham Zoning Ordinance (WZO) under Section 616.

SECTION IV: PUMPING OF ONSITE WASTEWATER TREATMENT SYSTEMS:

- A. Septic tanks or holding tanks shall be pumped out and inspected at least once every three years.
- B. In cases where a septic tank or holding tank has not been pumped out in the three years prior to the adoption of this ordinance, such systems shall be pumped out within one year of the effective date of this ordinance.

SECTION V: ADMINISTRATION:

- A. This ordinance shall be administered by the Board of Health or their designee.
- B. Prior to the effective date of this ordinance the owners of all developed properties within the Watershed Protection Overlay District shall be provided with written notice of the requirements of this ordinance.
- C. Property owners who have had their septic tanks pumped/inspected within three (3) years prior to the effective date of this ordinance shall be requested to provide the Board of Health or their designee with documentation of such pumping/inspection. Property owners who do not provide such documentation shall be presumed to have not pumped their septic tank within three years prior to the effective date of this ordinance.
- D. The property owner shall provide the Board of Health or their designee with documentation of the pumping, including receipts from the company which did the pumping, the approximate number of gallons of septic pumped and the approximate location of the septic tank. Such information shall be provided within ten (10) days of the pumping. Failure to provide the information as required, shall constitute grounds for the Town to conduct an onsite inspection, pursuant to RSA 128:5-a.
- E. The Board of Health or their designee may establish reporting forms necessary to administer this ordinance.
- F. No statement contained in this ordinance may be construed to interfere with any additional requirements that may be imposed by the Board of Health or their designee.

SECTION VI: ENFORCEMENT:

This ordinance shall be enforced by the Board of Health or their designee. Enforcement may include court action to recover fines and injunctive relief.

SECTION VII: VIOLATION:

A. Any property owner within the Watershed Protection Overlay District found to be violating any provision of this ordinance shall be sent written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.

B. Any person who violates this ordinance shall be guilty of a violation as provided in RSA 625:9 (V-a) and will be subject to fines and penalties as provided by law (RSA 651:2), which may be enforced under RSA 31:39-d. Each day of noncompliance shall constitute a separate offense.

C. If no satisfactory corrective action is provided by the property owner or the violation continues beyond the time specified for corrective action, the Board of Health or their designee shall impose a fine of \$100 for the first ten-day period. Each day of non-compliance thereafter constitutes a separate offense subject to a fine of \$50 per day up to a maximum fine of \$1000.

SECTION VIII: WAIVERS AND APPEALS:

A. The Board of Health or their designee may grant a waiver allowing less frequent pumping after review of either: 1) a valid septic system operational approval, on file, with NH DES; or 2) a current written system evaluation signed by a NH certified or licensed septic system evaluator. If the Board of Health or their designee determines that less frequent pumping would not be inconsistent with the purposes of this ordinance, a waiver may be granted. In no case shall a waiver allow pumping intervals to exceed five (5) years.

B. An applicant may appeal against a decision of the Board of Health or their designee to the Board of Health within ten (10) days of the issuance of the decision. The Board of Health shall hold a hearing and render a decision within thirty (30) days of appeal.

C. The Board of Health may vary the application of this ordinance with respect to any case when, in its opinion, the enforcement thereof would represent an unnecessary hardship, and the applicant has established that the health, safety and environmental protection required under this ordinance could be achieved without strict application of a particular subsection.

SECTION IX: SEVERABILITY:

Should any section or provision of this ordinance be held to be invalid, or unconstitutional such holding shall not affect, impair, or invalidate any other section or provision of this ordinance, and to such end all sections and provisions of this ordinance are declared to be severable.

SECTION X: EFFECTIVE DATE:

This ordinance shall take effect ninety (90) days following the approval by the Windham Annual Town Meeting.

Amended by Official Ballot Vote: March 11, 2025