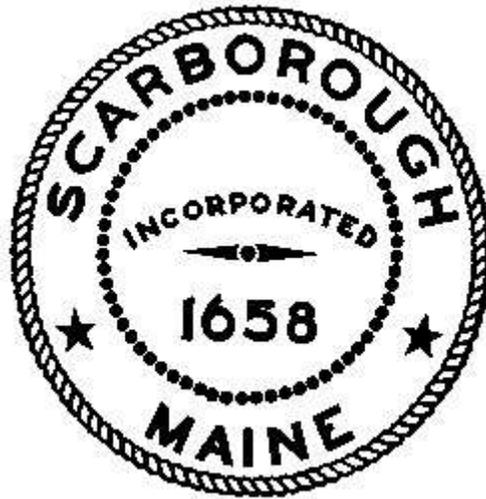


**CHAPTER 404A**

**TOWN OF SCARBOROUGH**

**PLUMBING ORDINANCE**



**Approved by the Town Council on March 21, 1979**  
**Amended June 21, 1989**  
**Repeals the Private Sewage Disposal Ordinance**  
**Amended November 17, 1993**  
**Amended September 6, 1995**  
**Amended June 17, 2009**  
**Amended July 16, 2014**  
**Amended November 1, 2017**

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**CHAPTER 404A**  
**SCARBOROUGH PLUMBING ORDINANCE**

An ordinance regulating sewage disposal.

**Article 1. TITLE.**

This ordinance shall be known, and may be cited as the “Plumbing Ordinance of Scarborough, Maine.”

**Article 2. FINDINGS AND INTENT.**

**Section 1. Findings**

It is found that the use of subsurface waste disposal systems is a necessary and, if properly installed, operated, and maintained, economical and healthy means of disposing of domestic waste in the Town of Scarborough, Maine. It is found further, that subsurface waste disposal systems which are improperly designed, installed, maintained, or used, or placed in unsuitable soils, are a nuisance and a menace to public health and to water quality.

Acknowledging that the State of Maine has chosen to issue a Consent Order in the matter of the inhabitants of the Town of Scarborough, requiring the strict administration and enforcement of provisions of any local Plumbing Ordinance which are more restrictive than the State Plumbing Code, this ordinance is therefore enacted to further the protection of the public health, safety, and welfare and to protect and enhance the quality of surface waters and groundwater within the Town of Scarborough, Maine.

**Section 2. Intent**

It is the intent of this ordinance to encourage utilization of the full range of options for individual waste disposal systems listed in Chapter 9 of the Maine State Plumbing Code, Part II. These options include the separation of human wastes from other domestic wastewater, and use of composting, incinerating, chemical, recirculation, vacuum, and other non-water using equipment. It is further the intent of this Ordinance to encourage a variety of approaches to subsurface disposal systems, to be utilized where qualified site investigators and the Plumbing Inspector deem such approaches appropriate and desirable, and where the Maine Department of Human Services, Division of Health Engineering approves of or grants a variance (if required) to permit such approaches, including the use of dual leaching area designs. The construction of common disposal areas to serve clusters of dwellings and structures shall be encouraged only where existing developments have malfunctioning subsurface disposal systems and where soil conditions do not allow replacement systems on individual lots in compliance with the Maine State Plumbing Code.

**Section 3. Responsibility to Users**

Nothing in this ordinance shall relieve the users of subsurface waste disposal systems from the responsibility of complying with all provisions of the Maine State Plumbing Code, except in those instances in which the provisions herein are more stringent, in which cases this ordinance shall have precedence over the Maine State Plumbing Code.

### **Article III. DEFINITIONS.**

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. An existing Subsurface Disposal System

Shall be deemed to be in compliance with the Code if any portion of the system regulated by the code was installed and maintained in accordance with the law in effect prior to the effective date of this code, unless the system is determined by the Plumbing Inspector to be dangerous, unsafe, unsanitary, or a nuisance.

2. “Subsurface Disposal Systems”

Means all private sewage disposal systems consisting of a treatment tank with the effluent discharging into an absorption area and holding tanks or other facilities as may be permitted under the procedures set forth elsewhere in this code.

3. Black waste water

Means wastewater containing human excrement, feces, and/or urine.

4. Gray waste water

Means all domestic liquid waste exclusive of black waste water.

5. Public sewer

Means a common sewer controlled by a governmental agency or public utility.

6. “Sewage”

Means any liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution. For the purposes of this code, the term sewage shall include industrial wastes, black waste water or gray waste water.

7. Sewer

Means a pipe or conduit that carries waste water or drainage water.

8. Shall

Is a mandatory term.

9. May

Is a permissive term.

10. Leaching area

Means that portion of the subsurface disposal system that is designed for the final disposal of the effluent from a septic tank or other treatment facility into the underlying soil.

11. Septic Tank

Means a watertight receptacle which receives sewage, and is designed and constructed so as to separate solids from liquids, digest organic matter through a period of detention, and allow the liquids to discharge into some system of final disposal outside of the tank which meets the requirements of this code.

12. Local Plumbing Inspector (LPI)

Is that individual properly certified by the State of Maine and appointed by the Town of Scarborough for the enforcement of the State Plumbing Code and the Scarborough Plumbing Ordinance.

13. Plumbing permits

Are a printed form furnished by the State of Maine and issued by the Local Plumbing Inspector for any plumbing installed in the Town of Scarborough.

14. “Conversion of a dwelling to a year-round dwelling

Means the installation of sufficient insulation, heating system or year-round habitation”. A year-round use is a dwelling so constructed, including but not limited to the use of insulation throughout a substantial part of the dwelling, or the use of a central heating system so as to be suitable for occupancy 365 days of the year.

15. “A conversion permit

Is not required for any dwelling which will not be occupied on a year-round basis or is not the principal dwelling place of the occupant.” A conversion permit means a permit to convert a seasonal dwelling to year-round use, and governed by the Maine State Plumbing Code.

16. Septage

Is the mixed liquid and solids pumped from septic tanks and cesspools receiving sewage.

17. Licensed soil evaluator

Means an individual licensed by the Department of Human Services as a site evaluator, (who has verified in writing that he/she is familiar with this ordinance). [11/01/17]

18. Holding tank

Means a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of sewage at another site. A holding tank is a storage tank retaining sewage conveyed to it by a water carrying system.

## **Article IV. LOCAL PLUMBING INSPECTOR.**

### **Section 1. Appointment**

There shall be appointed a Plumbing Inspector in accordance with “Article VII, Section 701, Administrative Code of the Town of Scarborough”, who shall carry out all duties assigned to local plumbing inspectors by the Maine State Plumbing Code or this ordinance.

### **Section 2. Liability**

The Local Plumbing Inspector or any employee charged with the enforcement of this ordinance acting for the Town in good faith and without malice in discharge of her/his duties, is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act or omission in the discharge of such duties. Any suit brought against the LPI or employee, because of such act or omission performed by her/him in the enforcement of any provisions or ordinances or of the Maine State Plumbing Code shall be defended by the Town until final termination of the proceedings. The Town shall indemnify and hold said LPI or employee harmless from any such suit. [amended 11/07/17]

### **Section 3. Right of Entry**

The Plumbing Inspector, in the discharge of her/his official duties and upon proper identification, may with the consent of the owner or occupant enter any buildings, structures, or premises at any reasonable hours. The District Court Civil Rule 80E outlines the procedures an inspector or other state or municipal official must go through to gain entry if the owner or occupant refuses to permit entry. [amended 11/01/17]

#### **Section 4. Reports by Site Evaluator**

The results of any site investigation performed by a soil evaluator in accordance with Chapter 4 of the Maine State Plumbing Code shall be signed by the soil evaluator and delivered to the Local Plumbing Inspector. In the event that a properly conducted soil investigation fails to locate an acceptable area for the installation of a subsurface disposal system, no plumbing permit shall be issued, and no subsurface disposal installed on that property. However, alternatives such as the option described in Article II, Section 2 of the ordinance may be considered.

#### **Section 5. Files and Records**

The Plumbing Inspector shall maintain a system of files and records in which are kept copies of subsurface waste disposal system plans as required in Article VIII, Section 4 of this ordinance; copies of violation reports as described in Article VIII, Section 3 of this ordinance; and copies of site investigation reports as described in Article IV, Section 4 of this ordinance.

### **Article V. SOILS ANALYSIS AND SYSTEM DESIGN.**

#### **Section 1. Soil Analysis and Design**

- A. All sites proposed for subsurface disposal systems shall be tested for soil suitability in accordance with the Maine State Plumbing Code and this ordinance. The Plumbing Inspector shall be notified of the location, date, and time of all site evaluations to be performed in his presence, and sufficient test pits to be made in a minimum area of 1,000 square feet \*uniformly encompassing the disposal site), indicating the minimum depth to bedrock, impervious strata or groundwater. In no case, shall a plumbing permit for a subsurface waste disposal system be issued if the depth of bedrock, groundwater, or impervious strata is less than 15 inches in original soil, except that the Local Plumbing Inspector may grant waivers in accordance with the provisions of the Maine State Plumbing Code, Part II.
- B. When a subsurface disposal system is proposed, it shall be designed in conformance with the standards of the Maine State Plumbing Code and this ordinance. The maximum elevation of the seasonal high water table at any time of the year, bedrock, or other impervious strata shall be at least three feet below the bottom of the absorption trench.

#### **Section 2. Building Permit**

Where soils are found to be unsuitable for subsurface waste disposal, as defined in the Maine State Plumbing Code, or where underground waste disposal systems are otherwise prohibited by this ordinance or the Maine State Plumbing Code, a building permit shall not be issued for new construction unless public sewer is available or experimental systems are utilized.

#### **Section 3. Experimental System**

- A. Experimental System means a system or part thereof that is not considered in the code.
- B. Design and Installation  
A system shall be designed and installed in accordance with criteria established by the Division of Health Engineering, Maine Department of Human Services, and this ordinance taking into account the topography of the site.

## **Section 4. Prohibited Systems**

- A. Holding tanks are not permitted for new construction.
- B. Common disposal areas serving multiple units are not permitted for new construction. This limitation does not apply to two-family dwellings, multifamily dwellings with four (4) or fewer dwelling units, and mixed-use buildings with four (4) or fewer dwelling units that are located in the portions of the RF, RPO, RH, RH2, and TVC2 zoning districts that are not served or cannot be reasonably served by the Town's public sewerage system provided that each building is served by one (1) or more independent subsurface sewage disposal systems so that no disposal system serves more than one (1) building. The use of common disposal areas to serve clusters of dwellings and structures shall be allowed only where existing units have malfunctioned. [Amended 07/16/14]
- C. The use of easements to locate new systems on neighboring properties is prohibited. All new systems shall be located on the property occupied by the structure to be served.

## **Article VI. SEASONAL DWELLINGS.**

### **Section 1. Seasonal Dwellings**

A person or persons proposing to convert a seasonal dwelling to a year-round dwelling shall obtain a conversion permit, and shall conform to the standards set forth by the Maine State Plumbing Code.

### **Section 2. Waiver**

Requirements of this article may be waived in accordance with Section 3:12 of the Maine State Plumbing Code (May 15, 1978). Owners of seasonal dwellings which have been converted to year-round use prior to the effective date of this ordinance, in accordance with laws then in effect, shall be exempt from the requirements of the Article and shall be required to upgrade, alter, or replace their underground waste disposal systems only if such systems are found to be unsafe, unsanitary, or a nuisance to life, health, or property.

### **Section 3. Enforcement**

Any person who converts a seasonal dwelling to year-round or permanent use after the effective date of this ordinance in violation of this section shall be required to comply with the provisions of this article. No waiver from this ordinance shall be issued by the Local Plumbing Inspector or the Maine Department of Human Services until consideration of all other options have been exhausted, including installation of composting, incinerating, chemical, recirculating or vacuum toilets. In addition, any person who violates this article, whether or not his or her waste disposal system is found deficient shall be guilty of a misdemeanor as prescribed in Article VIII of this ordinance.

## **Article VII. MAINTENANCE.**

### **Section 1. Recommended Maintenance**

The LPI shall issue with all permits for subsurface disposal systems, an informational brochure to advise property owners of the nature of the subsurface disposal system, and of important operational and maintenance practices.

## **Section 2. Septic Tank Pumping**

All septic tank pumpers must be licensed in accordance with State of Maine Law. Septic tank pumpers shall issue to owners of the septic tanks which they pump out a signed receipt, showing the date of pumping, the name and address of the septic tank owner and a description of the location and the capacity of the septic tank.

## **Section 3. Disposal of Septage**

The disposal of all septage shall be at a municipally approved site as required by the State of Maine Law (38 MRSA SS 4104-4105) or disposed or as otherwise permitted by State of Maine Law.

# **Article VIII. INSPECTION, EVALUATION AND RECORDS FOR EXISTING SYSTEMS.**

## **Section 1. Inspection**

Any subsurface disposal system or component thereof which is found to be malfunctioning or a nuisance to public health, safety, and welfare, or to the quality of surface waters or groundwater shall be ordered remedied by the owner in accordance with State of Maine Law and this Ordinance.

## **Section 2. Site Inspection for Existing Structures Required**

For any system which is serving an existing dwelling or structure and which must be upgraded or replaced, a site investigation in accordance with the Maine State Plumbing Code and this Ordinance shall be conducted to determine the appropriate type, size, or location of the system.

## **Section 3. Violations**

All violations of this ordinance discovered during any inspections shall be reported and appropriate corrective and enforcement actions shall be taken by the municipality.

## **Section 4. Filing**

The Plumbing Inspector shall retain a file, in accordance with Article IV, Section 5 of this Ordinance including a copy of all site investigation reports, a description of the location of all subsurface disposal systems which are approved for new construction within the municipality and information regarding violations and enforcement actions.

# **Article IX. MISCELLANEOUS.**

## **Section 1. Application for Local Plumbing Permit and Fee**

No application for a permit to construct or install a subsurface disposal system will be accepted by the Local Plumbing Inspector unless it is complete in every detail as prescribed by this ordinance and the Maine State Plumbing Code. Internal Plumbing Code Fees are as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council. [09/06/95]

A. A person who starts construction without first obtaining a permit shall pay double the permit fee.

B. Restrictions

1. A permit is valid only for the named applicant and is non-transferable.

2. A permit shall become void if construction has not been started within six months from the date of issue.
3. The issuance of a permit shall not be construed to give authority to violate the provisions of the rules and shall not prevent the LPI from requiring a correction of an error in the application or from stopping construction when it is in violation of the rules.

## **Section 2. Penalties**

Any person, firm, partnership, or corporation who violates any provision of this ordinance, shall, upon conviction, be fined in an amount not less than one hundred dollars or more than five hundred dollars for each violation. Each day in which any such violation shall continue, shall be deemed a separated violation.

## **Section 3. Severability**

In the event that any section, subsection, or any portion of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this ordinance.

## **Section 4. Applicability**

The construction of new subsurface disposal systems or repairs, replacement or alterations of existing subsurface disposal systems shall conform to the requirements of the Maine State Plumbing Code and this Ordinance.

## **Section 5. Appeals**

“Section 1 Appeals from the decision of the Plumbing Inspector shall be to the Town Planner/Engineer and then to the Town Council. No appeals shall be granted from matters governed by the State Plumbing Code until after approval has been granted by the Department of Human Services in accordance with the provisions of the Maine State Plumbing Code.”