

RURAL WASTEWATER TREATMENT SUPPORT PROGRAM ORDINANCE

OF THE

TOWN OF MOUNT DESERT

ENACTED MARCH 1, 2004

AMENDED MARCH 7, 2006

AMENDED MARCH 6, 2007

AMENDED MAY 5, 2009

AMENDED MAY 2, 2023

**TOWN OF MOUNT DESERT
RURAL WASTE WATER TREATMENT SUPPORT PROGRAM ORDINANCE**

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TOWN OF MOUNT DESERT RURAL WASTE WATER TREATMENT SUPPORT PROGRAM ORDINANCE

1.0 Legislative Findings

The Town of Mount Desert hereby finds as follows:

- 1.1. The provision of effective rural wastewater treatment is essential to the health, welfare and quality of life in the community.
- 1.2 The Town currently pays the entire cost of wastewater treatment system.
- 1.3 Homeowners living in the rural parts of town must construct and maintain private wastewater treatment systems at their own expense.
- 1.4 The existence of private wastewater treatment systems in rural areas of the Town has reduced the need for extensions of the Town's taxpayer-funded public wastewater treatment system, thereby resulting in consistent annual cost savings to the Town.
- 1.5 The expense of constructing and maintaining these private systems constitutes a disproportionate financial burden on rural homeowners in areas not served by the Town's public wastewater treatment system.
- 1.6 Rural seasonal residences in the Town of Mount Desert are typically occupied for an average of four months per year, and therefore place less pressure on their private wastewater treatment systems than year round rural residences.
- 1.7 It is important to encourage and support year-round residency in the Town.
- 1.8 A majority of the Town's year-round residents and available housing are in areas of the Town not served by the town's public wastewater treatment system.
- 1.9 Maintenance of clean coastal and inland waters is important to support the Town's economic base as a destination resort area for vacationers seeking to participate in outdoor recreational and scenic activities.

To address these issues, the Town of Mount Desert hereby adopts the following "Rural Wastewater Treatment Support Program Ordinance" to provide financial assistance each year to certain qualifying property owners to assist them in providing and maintaining their own wastewater treatment systems.

2.0 Purpose of Ordinance

This program is designed to achieve the following goals. The Town finds that attainment of these goals constitutes a valid public purpose for expenditure of Town funds, in accordance with 30-A MRSA sec. 3001 and 5721, as amended.

- 2.1** To maintain clean coastal waters, freshwater lakes and safe drinking water in rural areas of the Town in the same manner as public wastewater treatment facilities protect water quality in the developed areas of the Town.
- 2.2** To ensure through regular inspection that privately owned rural wastewater treatment systems are properly maintained and function properly.
- 2.3** To establish better equality in the Town's provision of and financial support for wastewater treatment throughout the entire Town.
- 2.4** To recognize that in general, rural year-round residences put greater pressure on private wastewater treatment systems which thus require more frequent maintenance and repair than private wastewater treatment systems serving rural seasonal residences and rural commercial properties which are also subject to less usage.

3.0 Definitions

For purposes of this ordinance only, the following terms have the meanings stated:

- 3.1** Developed area: All properties within the geographic limits of the Town of Mount Desert connected to the Town's public wastewater treatment system.
- 3.2** LPI: Local Plumbing Inspector
- 3.3** Private wastewater treatment system: An underground holding tank, leach field, septic system, wastewater pumps, or any combination of these or other facilities and associated piping constructed, not connected to the public wastewater treatment system, installed and maintained in accordance with the State Plumbing Code and applicable Town of Mount Desert ordinances, for the purpose of providing wastewater disposal services to one or more individually-owned private residences located in the rural area.

- 3.4 Rural area:** All properties within the geographic limits of the Town of Mount Desert served by a private wastewater treatment system.
- 3.5 Seasonal resident:** The owner of an individually-owned private residence located in the rural area, who does not qualify as a year-round resident in accordance with section 3.6 below.
- 3.6 Year-round resident:** The owner of an individually owned private residence located in the rural area. For purposes of this definition, all persons owning a private residence located in the rural area must meet the eligibility requirements for the Maine Resident Homestead Tax Exemption program under 36 MRSA sec. 681-689 as amended, to be deemed a year-round resident for that year. The determination of the Town assessor in this respect under 36 MRSA sec. 682 shall be final, subject to section 5.6 below ("Appeals").

4.0 Benefit Established: Amount

- 4.1 Benefit established:** Subject to annual appropriation as provided in section 7 below, and upon application and qualification as provided in this ordinance, the owner of an individually-owned private residence located in the rural area shall receive an annual benefit payment from the Town, for the purpose of maintaining and repairing the private wastewater treatment system serving that residence.
- 4.2 Benefit Amount:** The benefit amount for each year shall be determined annually by the Town Meeting, upon recommendation of the Town Selectmen, Wastewater Treatment Superintendent, and Plumbing Inspector. The intention of this ordinance is that the full benefit amount for each year shall be an amount necessary to provide for annual pump-out, maintenance and repair of a typical private wastewater treatment system serving a single family, year-round residence, including an annual reserve amount for replacement of the system over an amortization period determined by the Town.
- 4.3 Benefit Limits:**
- A. Year-round residents. Year round residents, a. defined in this ordinance, shall be eligible to receive the full benefit amount established for that year by the Town Meeting.
 - B. Seasonal residents. Seasonal residents, as defined in this ordinance, shall not be eligible to receive a benefit.
 - C. Other limitations. No more than one full or partial benefit payment may be paid in any year with respect to the same residence.

No benefit payment shall be made with respect to any property located in the developed area.

No benefit payment shall be made with respect to any property that is wholly or partially exempt from property taxation under 36 MRSA sec. 652 or other provisions of law.

5.0 Application Procedure

5.1 Application required: Applications for benefits under this ordinance must be made in writing, on forms to be prescribed by the LPI's office. Forms for this purpose shall be made available through the LPI's office, the Treasurer's office, and as an enclosure or attachment to the annual Town report.

5.2 Application deadline: All initial applications for benefit payments under this ordinance must be received by the Town no later than April 30th to be considered for payment of benefits during that year. Initial applications received after May 1st shall be considered for approval, with approved payments to begin during the next fiscal year following the application date.

5.3 Information required:

- A. An initial application under this section must include a copy of the State subsurface wastewater permit and installer's construction data with respect to the system concerned. This requirement may be waived by the Town's LPI, if the information concerned is already on file with the Town at the time of the application, or if the applicant complies with (B) below.
- B. For any private wastewater treatment system constructed or installed more than four (4) years prior to the application date, the application must include a copy of a recent (less than four years old) inspection report by a LPI or other qualified professional. This requirement may be waived by the Town's LPI, if the information concerned is already on file with the Town at the time of the application.

5.4 Processing and approval: Initial applications shall be reviewed by the Town LPI, who shall determine and note on the application whether the applicant qualifies as defined in this ordinance.

The LPI shall approve only those applications for which the application information or the Inspector's personal inspection demonstrates that the residence concerned is located in the rural area, the applicant qualifies for the Maine Resident Homestead Exemption Program as determined by the Tax Assessor, and the system concerned has been constructed or installed and is

functioning in accordance with the State plumbing code and all other applicable code and permit requirements.

Following final approval by the Town LPI, a list of approved applicants shall be forwarded to the Town Treasurer for payment of the appropriate benefit amount.

5.5 Subsequent Years: An approved application shall remain in force unless the Town LPI determines that the original applicant or property is no longer eligible for the benefit payment due to title transfer; change of residency; change in use; extension of the Town's public wastewater treatment system; failure to maintain the private wastewater treatment in compliance with applicable codes and permits; failure to provide inspection reports; or other causes. The LPI shall prepare and annually review list of previously qualified applicants to determine their continuing eligibility.

In addition, as a condition of continuing eligibility, approved applicants shall provide the LPI with a report of inspection of the system concerned by a LPI or other qualified inspector, at least once every four years. An applicant shall not be eligible to receive a benefit payment for any year in which the information or reports required under this section has not been provided. If the applicant requests the LPI to perform inspection of the system, the following shall be required:

- A. The applicant shall notify the LPI that the tank will be pumped 24 hours prior to pumping.
- B. The applicant shall be responsible for uncovering all ports on the top of the tank(s) for inspection.
- C. The tank shall not be covered until it has been inspected by the LPI.
- D. The tank shall be pumped no later than November 15th of the benefit year.

Denial of an application or disqualification of the applicant for a particular year shall not bar a re-application or qualification for subsequent years.

5.6 Appeals: Any applicant whose application is denied under this section, or who has applied as a year-round resident but has been determined to be a seasonal resident, or who is determined to be ineligible for a subsequent year's benefit following approval of an initial application, shall be provided with notice in writing of the denial or determination. In the case of new applications, notice shall be given within thirty (30) days of the application date. Applicants may appeal an adverse decision or determination to the Selectmen within fourteen (14) days of the notice date. A decision on the appeal shall be provided within thirty (30) days after the appeal is filed.

The decision of the Selectmen on the appeal shall be final, with no right of further appeal.

6.0 Additional Eligibility Requirements

6.1 All property taxes must be current.

7.0 Appropriations Required

- 7.1** All benefits payable under this ordinance are subject the requirement of annual appropriation by the Town Meeting. In the event the amount appropriated for this purpose in any year is insufficient to fund the full amount of benefits payable to eligible applicants for that year, the full and partial benefit amounts payable for that year shall be reduced *pro rata*.

8.0 Period of Ordinance

- 8.1** The effective date of this Ordinance is: May 2, 2023.