

**CHAPTER 3
PUBLIC HEALTH**

**ARTICLE 3-1
HEALTH DEPARTMENT**

§3-1-1 PURPOSE

To establish a local health department and associated local regulations as allowed under RSA 147:1 and RSA 128:3 for the purpose of promoting the general well being for the individuals that live and work in the Town of Bedford.

§3-1-2 HEALTH OFFICER

The town council shall recommend to the Director of the Division of Public Health Public an individual to be appointed as the Bedford Health Officer as outlined in RSA 128:1. His or her duties shall be performed as outlined in RSA 128:5. These duties shall be in addition those required by these local ordinances. The Town of Bedford personnel policy and RSA 128 shall establish the position qualifications. The Health Officer shall be responsible for periodic review of the municipal health ordinances for compliance/coordination with all relevant state regulations. The review reports shall be submitted to the town council no less than every three years or upon a request for an interim review from the town council. The Health Officer shall report directly to the Bedford Fire chief.

§3-1-3 DEPUTY HEALTH OFFICER/INSPECTOR

The Town of Bedford may appoint a Deputy Health Officer as allowed per RSA 128:6a and 147:5. The Deputy Health Officer/Inspector shall report directly to the Town Health Officer.

§3-1-4 BEDFORD BOARD OF HEALTH

The Bedford Board of Health shall compromise the health officer and the town council. The organization of the board shall comply with the requirements of RSA 128:3.

§3-1-5 APPEALS

Wherever any health regulations adopted by the town reference an appeals process, unless specifically stated otherwise, the Bedford Board of Health shall be the appeals board.

§3-1-6 FEES¹

Health Department fees shall be reviewed and approved by the Town Council.

**ARTICLE 3-2
FOOD & BEVERAGES**

§3-2-1 FOOD and BEVERAGES

(a) Sanitary Production and Distribution of Food Ordinance

The Town of Bedford, New Hampshire, adopts The New Hampshire Rules For The Sanitary Production and Distribution of Food He-P2300 with the exception of He-P2330 (Special Requirements for Food Service Establishments Processing Food in a Residential Kitchen) and the language modified to reflect local jurisdiction in accordance with RSA. 147:1. The Town of Bedford also adopts all future amendments and revisions to the New Hampshire Rules For The Sanitary Production and Distribution of Food. Copies of the Rules are available for review at the Town offices. The Town of Bedford shall also abide by any of the requirements stated in the memorandum of understanding it has entered into with the New Hampshire Department of Health and Human Service Bureau of Food Protection. All rules set forth in this Article shall be at least as restrictive as those contained in the New Hampshire Rules For The Sanitary Production and Distribution of Food.

(b) Statutory Authority

This Article is adopted pursuant to the authority provided in RSA 31:39, I (i) and (k) and RSA 471:1.

§3-2-2 DEFINITIONS:

Where terms are not specifically defined in this ordinance, their meaning shall be derived from adopted codes. Where a term is not defined under any adopted code, its meaning shall be the ordinarily accepted meaning within the context that the term is used.

BOARD OF HEALTH – The Bedford Board of Health whose membership shall include the Bedford Town Council and the Health Officer for the Town of Bedford per RSA 128:3.

CRITICAL VIOLATION - A critical violation shall be any violation of a critical item identified in He-P 2302.18.

¹ Unless specifically stated within corresponding sections of this chapter, appropriate fee amounts are available in the Building Department Handbook.

HEALTH AUTHORITY – The Health Officer of the Town of Bedford whose appointment shall be under the jurisdiction of RSA 128:1.

FOOD SERVICE ESTABLISHMENT – As defined in HeP 2301.01 and in RSA 143-A:3, IV (He-P 2303:01)

FOOD PROCESSING ESTABLISHMENT – A commercial establishment in which food is manufactured or packaged for human consumption.

MOU – Memorandum of Understanding

PERSON – An individual, partnership, corporation, association, or other legal entity.

PERSON IN CHARGE – The individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

RETAIL FOOD ESTABLISHMENT – As defined in He-P 2301.01 (Retail Food Store) and RSA 143-A:3, VII.

SANITARY FOOD CODE – The New Hampshire Rules for the Sanitary Production and Distribution of Food (He-P 2300) as modified by the health authority.

§3-2-3 LICENSE:

(a) It shall be unlawful for any person to operate a food service, food processing, or retail food establishment within the Town of Bedford, who does not possess a valid license issued to him or her by the Health Authority. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license.

(b) Issuance of Licenses and Fees

Any person desiring to operate a food service, food processing, or retail food establishment shall make a written application for a license on forms provided by the Bedford Health Authority. The Health Authority shall issue a license to the applicant after receipt of such an application, the designated license fee, and after inspection reveals that the applicable requirements of this Ordinance have been met.

(c) Duration & Renewal

(i) Licenses are granted for a one (1) year period and must be renewed annually prior to the given expiration date. The license period shall expire at midnight of March 31st every year. The fees shall be made

payable to the Town of Bedford. Each food service facility must have at least one supervisory staff member attend a food safety seminar annually. Documentation must be provided to the Health Department verifying this requirement at the time of license renewal.

- (ii) The applicant has the right to notice and to a hearing pursuant to He-P 2302.23 before the department takes any adverse administrative action affecting an application for the renewal of an existing license.

(d) License Fee Schedule:

Fees for new food service, food processing and retail food establishments and for those establishments under new ownership, change of name and change of location shall be pro-rated on a monthly basis until the date of the assigned licensing period.

Food service license fees²:

- Class A - \$500
- Class B - \$250
- Class C - \$200
- Class D - \$125
- Class E - \$100
- Class F - \$75
- Class G - \$50
- Class O – NO CHARGE

(e) Non-Transferability

Licenses shall not be transferable from one (1) person or place to another person or place. A valid license shall be posted in every food service, food processing, and retail food establishment.

(f) Temporary Food Establishments

Licenses for temporary food establishments shall be issued for a period of time not to exceed fourteen (14) days.

(g) Establishments Outside the Jurisdiction of the Health Authority

- (i) Food from service establishments outside the jurisdiction of the Health Authority of the Town of Bedford may be sold within the Town of Bedford if such food service establishments conform to the provisions of this Ordinance or to substantially equivalent provisions.
- (ii) To determine the extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

² License classifications shall be as determined under section He-P 2302.5.

- (iii) In those instances when the establishment is unable to provide the Health Authority with a current inspection report (less than six (6) months old) from the jurisdiction where the facility is based the health Authority is authorized to require the establishment to secure a temporary food service license from the Town of Bedford and be subject to all of the Bedford Food and Beverage Ordinance provisions.

§3-2-4 PLAN REVIEW AND APPROVAL FOR FUTURE CONSTRUCTION

(a) Construction, Remodeling, or Conversion

- (i) In addition to any requirements provided under the Town of Bedford Zoning Ordinance, Site Plan Review Regulations, or any other local, State or Federal law, when a food service, food processing, or retail food establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted to use as a food service, food processing, or retail food establishment, properly prepared plans and specifications that are legible and drawn to scale showing layout, arrangement, and construction materials of work areas including floors, walls, and ceilings, and the location, size, and type of fixed equipment and facilities shall be submitted to the Health Authority for approval.
- (ii) A building permit shall not be issued until the Health Authority has given such approval.

(b) Change of Ownership

When an existing food service, food processing, or retail food establishment changes ownership, all equipment shall meet the current requirements of these regulations. A food establishment license shall not be issued to a new, remodeled, or converted establishment or to an establishment under new ownership until a sanitary inspection has been completed showing a minimum score of seventy (70) or better with no violations of critical items.

§3-2-5 INSPECTION OF FOOD SERVICE PROCESSING AND RETAIL FOOD ESTABLISHMENTS

(a) Mandatory Inspections

At least two (2) times per year, the Bedford Health Officer shall inspect each food service, food processing, and retail food establishment located in the Town of Bedford, NH. Additional inspections and reinspections may be made to assure compliance with the Sanitary Food Code.

(b) Access to Establishments

- (i) The Health Authority or Health Agent designated by the Health Authority, after proper identification, shall be permitted to enter at any reasonable time, any food service, food processing, an retail food

establishments with the Town of Bedford, NH for the purpose of making inspection to determine compliance with this Ordinance.

- (ii) The Health Authority or Health Agent shall be permitted to examine the records of the establishment in order to obtain information pertaining to food and supplies purchased, received, or used, food safety training records and persons employed. The employees' rights to privacy will not be invaded.

(c) Inspection Records

- (i) Whenever the Health Authority or Health Agent makes an inspection of a food service, food processing, or retail food establishment, the findings shall be recorded on an inspection report form provided for this purpose, and the Health Authority or Health Agent shall furnish a copy of the original of such inspection report form to the license holder or person in charge. The person in charge shall acknowledge receipt of the inspection report by signing the report. Such form shall summarize the requirements of the Sanitary Food Code. (He-P 2302.25).
- (ii) A license shall be in effect if the sanitary inspection shows a minimum score of seventy (70) with no critical violations.
- (iii) As required by the MOU; the inspection records must be kept on file and made available for reviews by the State of New Hampshire Department of Health and Human Services Food Protection Bureau

(d) Inspection Fees

License holders shall be billed \$50 for each inspection conducted except for:

- The initial pre-licensing inspection.
- The two inspections required by section 1-2-6 (a)..
- One inspection associated with complaint investigation.

§3-2-6 VIOLATIONS AND PENALTIES

(a) Written Notice of Violations

Notwithstanding the other provisions of the Ordinance, whenever the Health Authority finds unsanitary or other conditions in the operation of a food service, food processing, or retail food establishments which, in his or her judgment, constitute a substantial hazard to the public health, a written notice may be issued to the license holder or operator citing such conditions, the corrective actions to be taken and may also specify the time period within which such actions shall be taken.

(b) Issuance of Notices

- (i) Whenever a food service, food processing, or retail food establishment does not meet the requirements of the Sanitary Food Code as listed on the inspection report form, the license holder or operator shall be notified of such violations by means of a copy of the inspection report

form or other written notice. In such notification, the Health Authority shall:

- Set forth the specific violation found, together with the demerit score of the establishment.
 - Establish a specific and reasonable period of time for the correction of the critical violations found.
- (ii) In the case of temporary food service establishments, critical violations must be corrected within a specified period of time not to exceed twenty-four (24) hours. Failure to comply with such notice shall result in immediate suspension of the temporary license.

(c) Service of Notices

- (i) Notices, provided for under this Section, shall be deemed to have been properly served when a copy of the original inspection report form or other notice has been delivered personally to the license holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the license holder.
- (ii) A copy of such notice shall be filed with the records of the Health Authority. Nothing herein shall preclude a suspension of license and temporary closing of violators as set forth in these Regulations.

(d) Compliance Agreement

The person in charge must enter into a compliance agreement, as defined by the Sanitary Food Code, with the Health Authority:

- (i) If critical violations are found and can not be corrected immediately in the presence of the inspector; or
- (ii) If construction items, delineated in He-P 2302.19, are found during an inspection for a new or change of ownership license, and can not be corrected immediately in the presence of the inspector.

(e) Suspension of Licenses

- (i) Temporary Suspension:
Licenses may be suspended temporarily by the Health Authority for failure of the holder to comply with the requirements of this Ordinance.
- (ii) Immediate Suspension
If it is deemed necessary, the Health Officer may order that the license be immediately suspended and all food operations will be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Authority, shall be offered a hearing within five (5) days after the Health Authority has received the written petition.

(f) Reinstatement of Suspended Licenses

- (i) A license holder whose license has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the license.
- (ii) Within five (5) days following receipt of a written request, including a statement signed by the applicant that the conditions causing the suspension of the license have been corrected, the Health Authority shall make a reinspection. Owner must obtain a score of 70% or better with no critical violations.
- (iii) If the applicant is complying with the requirements of this Ordinance, the license shall be reinstated.

(g) Revocation of Licenses

- (i) For failure to fulfill the requirements of a compliance agreement to correct a critical violation that poses an imminent health hazard or repeated violations of any of the requirements of this Ordinance, or for interference with the Health Authority in the performance of duties, the license may be permanently revoked after the Health Authority has provided an opportunity for a hearing.
- (ii) Prior to such action, the Health Authority shall notify the license holder in writing and state the reasons for which the license is subject to revocation and explain what is necessary to correct the problems. and advise that the license shall be permanently revoked at the end of five (5) days following service of such notice, unless a written petition for a hearing is delivered to the Health Authority by the license holder or operator within such five (5) day period. (RSA 143-A:7).
- (iii) A license may be suspended for cause pending its revocation or a hearing relative thereto.

(h) Reinstatement of Revoked License

- (i) Reinstatement of revoked licenses, in accordance with RSA 143-A:8, shall include:
 - (A) A written application to the Health Authority for a re-inspection from the person whose license has been revoked;
 - (B) A re-inspection by the Health Authority of Health Agent within 10 days of receipt of the written request; and
 - (C) The immediate reinstatement of the license if the reasons for revocation have been corrected.
- (ii) If a revoked license expires without having been reinstated, the former license holder shall apply for a new license before again operating a food service establishment or retail food establishment. (He-P 2302.21).

(i) Hearing

The Bedford Board of Health shall conduct the hearings provided for in this Section at the time and place designated by them.

Based upon the record of such hearing, the Bedford Board of Health shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing.

The Bedford Board of Health shall furnish a written report of the hearing decision to the license holder and/or operator within 5 business days of the hearing.

§3-2-7 PENALTIES

The Health Officer shall impose administrative fines in the specified amounts for the following violations:

- (a) For willful submission of false or fraudulent information on or with an application, in violation of He-P 2302.03, the fine shall be \$500;
- (b) For failure to operate a food service establishment or retail food store only in the manner in which licensed to do so, in violation of He-P 2302.26(a), the fine shall be \$500;
- (c) For failure to cooperate during an inspection of a food service establishment, retail food store, mobile food unit or vehicle used to sell retail food, including but not limited to failing to allow department representatives or inspectors to inspect food service establishment or retail food store premises and vehicles at all times, in violation of He-P 2302.26 (b) and (c), the fine shall be \$2,000;
- (d) For failure to notify the department by telephone within 24 hours of any fire or other disaster that jeopardizes the safety or sanitation of food provided in food service establishments or retail food stores, in violation of He-P 2302.26 (g), the fine shall be \$50;
- (e) For failure to notify the department pursuant to He-P 2302.13 (a) 30 days prior to a food service establishment or retail food store ownership change, the fine shall be \$500;
- (f) For failure to notify the department pursuant to He-P 2302.15 (a) prior to moving the location of a food service establishment or retail food store, the fine shall be \$250;
- (g) For failure to submit a plan for review as required in He-P 2302.17, the fine shall be \$200;
- (h) For failure to discard food as required by He-P 2303.01 (h), and in the manner instructed to do so by the department, the fine shall be \$250;

- (i) For failure to cease operation upon notification by the department to do so, the fine shall be \$500. Each day that a license holder fails to cease operation shall be considered a separate offense subject to an additional \$500 fine;
- (j) For failure to cease operation after a license has expired, when an application has been denied, or when a license has been revoked, the fine shall be \$500. Each day that a license holder fails to cease operation shall be considered a separate offense subject to an additional \$500 fine;
- (k) For a violation of the same critical item as defined in He-P 2302.18 (a) for more than 2 inspections in a period of 12 months, the fine shall be \$500;
- (l) For failure to pay an administrative fine within 30 days of its imposition, or the completion of any appeal of the administrative fine, the fine shall be \$100 per day for the duration of the license;
- (m) For failure to comply with a compliance agreement signed by the owner, as per He-P 2302.31, the fine shall be \$100;
- (n) For operation of a food service establishment without obtaining a food service license, as required by RSA 143-A:4, the fine shall be \$500 plus \$100 for each day for which the department has proof that the establishment has operated.

§3-2-8 FORM OF PAYMENT OF FEES AND ADMINISTRATIVE FINES

Whenever an applicant or license holder makes a payment to the department in satisfaction of a fee or administrative fine, the following shall apply:

- (a) Payment shall be made in the form of cash, check, or money order for the exact amount due;
- (b) Cash, money order, or certified check shall be required when an applicant or license holder has issued payment to the department by check, and such check was returned for insufficient funds;
- (c) A check or money order shall be made payable to the “Town of Bedford”; and
- (d) Any payment made to the department by check which is returned for insufficient funds, and which a license holder has not made good by submitting cash, money order or certified check within 2 business days of notification by the department, including any penalty assessment required by RSA 6:11-a, shall be grounds for revocation of the license.

**ARTICLE 3-3
SEPTIC SYSTEMS & WELLS**

§3-3-1 SEWAGE DISPOSAL SYSTEMS

Sewage disposal system shall not be installed, altered, or maintained in the Town of Bedford unless it is in conformity with these regulations as well as the pertinent regulations of the State of New Hampshire, as may exist, be established or amended

(a) Statutory Authority

Under the authority of RSA Chapter 147:1, 147:10 and RSA 485-A:32, the following regulations for governing the installation, alteration, inspection and maintenance of sewage disposal systems and wells for the health and safety of the people of Bedford are hereby adopted.

(b) Purpose

To provide regulations for adequate and safe subsurface sewage disposal installations, hereafter referred to as the system(s), which are to be located and constructed so as to avoid contaminating any existing or future water source or water supply and to provide for the efficient, effective administration of those regulations. To provide regulations for adequate and safe well construction, which are to be located and constructed so as to avoid contamination and to provide for the efficient and effective administration of those regulations.

(c) Statutory provisions

The rules and regulations established by the State of New Hampshire Department of Environmental Services, Subsurface Bureau and Water Resource Management Bureau form a part of this chapter to the extent that said State regulations are accepted and added to by the provisions of this entire chapter.

§3-3-2 DEFINITIONS

The definitions listed are defined under the section entitled “CHAPTER DEFINITIONS” in the current adopted Code of Administrative Rules governing **Subdivision and Individual Sewage Disposal System Design Rules** unless clarified or modified by this ordinance. Where a term is not defined under any adopted code, its meaning shall be the ordinarily accepted meaning within the context that the term is used.

AGENT(S) - The individual(s) authorized by the Town Council to perform all administrative and inspection responsibilities of this chapter.

DESIGNER - NH licensed designer of subsurface disposal systems.

INSTALLER - NH licensed installer of subsurface disposal systems.

OWNER - The person in whose name the ownership of the property is legally recorded and is his or her primary domicile. The authority to perform any of the duties as herein described may not be transferred to any other person with the

exception of a NH licensed designer and NH licensed installer of subsurface, sewage system(s).

SUBSURFACE BUREAU- The division of the NH Department of Environmental Services, which monitors and regulates subsurface sewage disposal systems.

TOWN - The Bedford Board of Health per RSA 128:3, or its designated agent(s). Appeals from administrative decisions shall be made directly to the Board of Health.

WATER RESOURCE MANAGEMENT BUREAU- The division of the NH Department of Environmental Services, which monitors and regulates wells.

WELL - Private subsurface water supply.

§3-3-3 PERMITS

A permit for the installation and/or alteration of a sewage disposal system must be obtained from the Building/Health Department prior to the commencement of any work on a system.

Information regarding permit fees is available in the Bedford Building Department Handbook, which is available at the Town offices.

(a) Licenses

All designers and installers must maintain current State of New Hampshire licensure unless as excepted under RSA 485-A:35 & 485-A:36 where they meet the definition of “owner” as defined under these regulations.

§3-3-4 INSPECTIONS

See the Bedford Building Department Handbook for inspection requirements. Copies of the Building Department Handbook are available for review at the Town offices.

§3-3-5 CAPACITY AND CONSTRUCTION REQUIREMENTS FOR SEWAGE DISPOSAL SYSTEM DESIGN

(a) The system shall be designed, constructed and installed so as to satisfy all requirements set forth in pertinent State of New Hampshire DES Subsurface Bureau Regulations as they exist, may be established or may be amended. These regulations currently include but may not in the future be limited and referred to as Chapter Env Ws 1000 - Subdivision and Individual Sewage Disposal System Design Rules and local design amendments.

(b) All new septic designs must be reviewed and approved by the Bedford Health Department prior to receiving state approval. This shall also include requests for waivers to the individual sewage disposal system design administrative rules.

§3-3-6 LOCAL DESIGN, CONSTRUCTION AND CAPACITY REQUIREMENTS FOR SEWAGE DISPOSAL SYSTEMS

(a) Filter Fabric

An effective barrier of a minimum of 5-oz./square yard of non-woven, polyester filter fabric shall be placed over the top of the system to prevent infiltration of the backfill. The use of building paper or hay in lieu of the filter fabric is not acceptable.

(b) In-kind Replacements

Where no previous state approval for construction and operation exists for those septic systems being replaced under the subsurface rules for in-kind replacement shall have the septic tank sized to meet current septic tank sizing requirements. This shall also include those systems where a garbage disposal has been installed in the dwelling contrary to an existing septic design.

Where existing systems have been constructed to separate “gray” water and septic waste to separate disposal “systems” these two waste systems must be combined into a single disposal system at the time of the in-kind replacement.

(c) Septic System Tank Replacement

(i) The tank of an existing septic system may be replaced, when necessary, when done in compliance with Bedford Chapter 1 -3 Sewage Disposal Systems and Wells and NH DES Subdivision & Individual Sewage Disposal Systems administrative rules.

(ii) The property owner or a licensed NH installer and/or designer shall submit a sketch of the property, including the house, septic system tank replacement site and known property lines prior to the issuing of a local permit.

(d) Percolation Tests and Test Pits -

(i) An agent of the Town of Bedford must witness Test Pits for septic in-kind replacement.

(ii) A minimum notice of forty-eight (48) hours shall be given prior to the request for inspection.

(e) Failed Septic Systems

A portable toilet shall not be used as a replacement for a failed septic system.

(i) Expedited Approvals

Where an expedited approval for construction has been issued by the NH DES Subsurface Bureau the new system shall be replaced and receive approval for operation within ninety- (90)-days of said state approval for construction. Where it has been stated the existing individual septic system is in failure the property owner shall pump the septic tank on a regular basis to prevent untreated contaminants from being discharge to

the surface. Failure to correct the failed system, including pumping of the tank, within the above time frame shall result in the Health Department ordering the property vacated based upon RSA 147:8 and 147:16a until; such time a the new system has received an approval for operation from the DES.

§3-3-7 INDIVIDUAL SUBSURFACE WATER SUPPLIES

All wells to be used as a water source shall be designed, constructed, and satisfy all requirements set forth in pertinent State of New Hampshire, Department of Environmental Services, Water Resource Management Bureau Regulations as they exist, may be established or may be amended in the future.

(a) Permits

A permit for the installation and/or alterations of wells must be obtained from the Building/Health Department prior to the commencement of any work on a well. A scaled diagram of the location must accompany the permit application. Diagram must show existing or proposed subsurface disposal system on that and adjacent lots.

Information regarding permit fees is available in the Bedford Building Department Handbook, which is available at the Town offices.

(b) Local well requirements

(i) Well location

(A) New building lots – On building lots proposed and created after the date of this ordinance, wells shall be located so as to preclude the required protective well radius from crossing the proposed property line. The Bedford Health Department must approve all proposed well locations prior to state and local subdivision approvals. The proposed wells shall be shown on a plan in a location that is accessible to conventional well drilling equipment.

(B) Existing building lots – For new or replacement wells being installed on legal lots of record existing prior to the date of this ordinance, the well shall be located so as to preclude the required protective well radius from crossing property lines. When this not possible due to:

- (1) Lot shape.
- (2) Location of existing septic systems.
- (3) Topographic conditions.
- (4) Other mitigating circumstances.

A request for relief shall be made to the Health Department and a well release shall be recorded for the non-compliant well.

(ii) Water Test Requirements

All new and replacement wells constructed/installed after the effective date of this ordinance; a State of NH certified testing lab shall do a well water analysis of the following parameters:

- a. Bacteria³
 - b. Chloride
 - c. Sodium
 - d. Iron
 - e. Manganese
 - f. pH
 - g. Hardness
 - h. Fluoride
 - i. Nitrate/Nitrite
 - j. Lead
 - k. Arsenic
 - l. Volatile Organic Compound Screen (VOC)
- (A) If the VOC Screen is positive, further testing shall be done to determine the type of contaminant and concentration.
- (B) An original test result shall be submitted to the Building/Health Department prior to the well being placed in service.

§3-3-8 FINES AND PENALTIES

A penalty not to exceed the amount permitted by statute shall be imposed on the applicant for failure to comply with these regulations. Each day of continuing failure to comply, after written notice of the violation(s) shall constitute a new offense. Repeated violations of regulations may be cause for the agent(s) to refuse to issue further permits for a period of one (1) year.

³ The test results for this item must meet the minimum requirement of absent prior to the well being placed in service.

**ARTICLE 3-4
PUBLIC BATHING PLACES**

§3-4-1 STATUTORY AUTHORITY.

- (a) As permitted by RSA 31:39 and RSA 485-A:26 this article shall regulate the operation of all swimming pools, recreational spas, hot tubs, and natural bathing areas that meet the definitions of public bathing places and facilities as defined in this subchapter. Such facilities regulated by this chapter shall be referred to herein as public pools or public spas.
- (b) All public pools and spas shall be maintained and operated at all times in accordance with New Hampshire Code of Administrative Rules, Env-Wq 1100 Public Bathing Places. Copies of the Code are available for review at the Town offices.
- (c) If any requirement in Env-Wq 1100 conflicts with any local ordinance, the more stringent requirement shall apply.

§3-4-2 NEW FACILITIES

In addition to any requirements provided under the Town of Bedford Zoning Ordinance, Site Plan Review Regulations, or any other local, State or Federal law, all new facilities meeting the criteria of public bathing facility/place shall secure plan review and construction from the from the New Hampshire Department of Environmental Services

§3-4-3 DEFINITIONS⁴

Where terms are not specifically defined in this ordinance, their meaning shall be derived from adopted codes. Where a term is not defined under any adopted code, its meaning shall be the ordinarily accepted meaning within the context that the term is used.

HEALTH AUTHORITY – The Health Officer of the Town of Bedford whose appointment shall be under the jurisdiction of RSA 128:1 or his designee.

PUBLIC BATHING FACILITY - means a public bathing place that comprises a water-containing structure and associated buildings and equipment, intended or used for bathing, swimming, or diving purposes.

PUBLIC BATHING PLACE - means a place or location, together with buildings and equipment, intended or used for recreational or therapeutic bathing, swimming, or diving, and operated by or for any governmental subdivision, public or private corporation, partnership, association, or

⁴ See Env-Wq 1100 PUBLIC BATHING PLACES, code of administrative rules, for complete text.

educational institution open to the public, members, or students, whether on a fee or free basis.

PUBLIC BATHING FACILITY OPERATOR - means the individual who has responsibility for the daily operation of a public bathing place and who is trained in the sanitation, safety, and proper maintenance of the public bathing place and all physical and mechanical equipment associated therewith.

§3-4-3 PERMITS

(a) Annual Permit Required

No person, corporation, or other entity shall operate, maintain, or allow to be used any public pool or spa except when in possession of a valid permit issued by the Health Department. The permits shall be issued annually. Annual permits shall expire March 31 of every year.

(b) Expiration of Permit

Except as otherwise stipulated in this chapter, any permit issued pursuant to this article shall be valid for a one-year period and shall expire on the last day of March, annually. There shall be a late application fee for any permit renewal application received more than ten days after its expiration.

(c) Permit to be Posted

Any permit issued pursuant to this subchapter shall be posted in a conspicuous place about the public bathing facility.

(d) Revocation Procedure

(i) Whenever the Health Authority shall find that any public bathing facility is not in compliance with the terms and conditions of this subchapter, the Health Authority may cause the operating permit to be revoked or suspended by any or all of the following methods:

- (A) Health Authority may physically remove the permit from its posting.
- (B) Health Authority may notify the owner or operator of the public bathing facility in writing that the operating permit is revoked or suspended.
- (C) Health Authority may post a sign or signs conspicuously about the public bathing facility to the effect that the operating permit has been revoked.

(ii) Revocation proceedings shall be in accordance with Env-Wq 1103.13.

§3-4-4 INSPECTIONS

- (a) All owners and operators of public bathing facilities shall allow the Health Authority entry onto the pool premises at all reasonable times for the purposes of inspections and sample collection.
- (b) The Health Authority shall require an annual pre-opening inspection prior to the public bathing facility being utilized by the public.
- (c) Permit holders will be billed for re-inspection if the same violation is noted on 2 or more inspections in any twelve-month period.

§3-4-5 FEE SCHEDULE

- (a) Annual Permit Fees:
 - \$175 for each indoor pool.
 - \$125 per outdoor pool or natural bathing place.
 - Spa and hot tub permits will be issued at \$125 per tub or spa up to two units and \$100 for each additional unit at each site.
 - No permit fee shall be charged for municipally owned and operated facilities.
- (b) Re-Inspection Fee:
 - \$50/visit
- (c) Late Permit Renewals⁵
 - \$25

§3-4-6 OPERATIONAL CRITERIA

- (a) Quality of Water
 - (i) Public swimming pools, recreational spas, hot tubs, and natural bathing areas shall be maintained and operated at all times in accordance with New Hampshire Public Bathing Rules, Env-Wq 1100. A copy of these regulations shall be on file at the Town Health Department.
 - (ii) In the event that the health officer or the designated representative deems a biological water test is required, the public bathing facility shall pay for the water testing fee in addition to the Public Bathing Place Permit.
 - (iii) Public Bathing Facilities will be charged separately for the water test. Failure to pay for the water test will result in the suspension of the Town of Bedford Public Bathing Places permit.

⁵ See expiration of permit section for details.

(b) Required Equipment

(i) Public pools. All public pools shall be supplied at all times with the following items of equipment, which shall be maintained in complete form and proper working order:

- (A) Public pools using chlorine as a disinfectant shall be equipped with a positive displacement chlorinator or a unit that controls the rate of hypochlorite or bromine tablet erosion, which shall be maintained in operating condition at all times. Other systems of disinfections such as bromine, and the like, will be considered on an individual basis, capable of determining free, combined, and residual levels or concentrations of the disinfecting agent as well as measuring pH, alkalinity and cyanuric acid.
- (B) One shepherd's crook with a minimum handle length of 12 feet.
- (C) One ring buoy with a rope attached, the rope to be no less than ¼ inch in diameter and in length one and one-half times the width of the pool or 50 feet, whichever is less.
- (D) One plastic floatable backboard device for the transportation of persons with spinal injuries.
- (E) One standard American Red Cross 24 unit first aid kit or its equivalent.

(ii) Public spas and hot tubs. Public spas and hot tubs used by the public for recreational purposes shall be operated in accordance with the following standards:

- (A) Adequate shower bath facilities shall be provided at all spa and hot tub facilities. Showering is required before use of the spa and hot tub.
- (B) Disinfection shall be by continuous feed equipment with hypochlorite or bromine being the only acceptable disinfectants.
- (C) Spa and tub surfaces and surrounding areas shall be smooth, easily cleanable, and maintained in good repair at all times.

§3-4-7 SWIMMER SAFETY.

(a) In public pools, supervision of bathers shall be provided in accordance with the following standards:

- (i) Where lifeguard service is provided, the lifeguard shall have satisfactorily completed a senior course of instruction in lifesaving and water safety equivalent to that offered by the American Red Cross or the YMCA.
- (ii) Where no lifeguard service is provided, a warning sign shall be placed in plain view, which shall state "WARNING-NO LIFEGUARD ON DUTY" with clearly legible letters at least four inches in height.

(b) Certification

Public Bathing Facility Operators shall take an approved certification course and become “Certified Pool Operators” by 2010.

**ARTICLE 3-5
SEVERABILITY**

§3-5-1 SEVERABILITY

If any section, provision, or part of this Ordinance should be held invalid for any reason whatsoever, such decision shall not affect the remaining portions, which shall remain in full force and effect; and, to this end, the provisions of this Ordinance are severable.

Effective Date: 1/1/2008
(Passed by the Town Council 11/14/07)

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