

ATTACHMENT #1

ORDINANCE CONCERNING MALFUNCTIONING DOMESTIC WASTEWATER DISPOSAL SYSTEMS

I. Authority

This ordinance is enacted pursuant to 30-A M.R.S.A. §3428 and 30-A M.R.S.A. §3444. It is intended to authorize the municipal officers to take action to correct the public health hazard and environmental threat presented by malfunctioning domestic wastewater disposal systems by repairing or replacing those systems at Town expense, then obtaining reimbursement of all such expenses from the property owner.

II. Procedure

(A) Abatement Procedure. Upon complaint of any person or on their own information, the municipal officers shall serve an order to remedy a malfunctioning waste water disposal unit upon the owner or occupant of any premises within that municipality which has such a malfunctioning unit.

(B) Content of Order. The order shall be addressed to the owner of the premises and must contain:

- (1) The date;
- (2) The fact of the malfunctioning waste water disposal unit;
- (3) A notice to remedy the nuisance within 10 days of service of the order; and
- (4) The signatures of the municipal officers.

If service is to be made upon a tenant or occupant in possession, the order must be addressed to that person in addition to the owner.

(C) Service and Return of Service. One of the municipal officers or a law enforcement officer shall serve the order personally upon the owner, tenant or occupant in possession. The server shall make and file a return of service indicating the method used and the person served.

(D) Abatement. If the nuisance is not abated within the 10-day period, the municipal officers or their agents may enter the premises and have the malfunction adequately remedied. To recover any actual and direct expenses, including reasonable attorney fees if the municipality is the prevailing party, incurred by the

municipality in the abatement of such nuisances, the municipality shall:

A. File a civil action against the owner. The costs, including reasonable attorney fees, to create and prosecute an action to collect expenses following such a civil complaint, shall also be recovered from the owners; or

B. Assess a special tax against the land on which the waste water disposal unit is located for the amount of the expenses. This amount shall be included in the next annual warrant to the tax collector of the municipality for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, M.R.S.A. Section 505, in the year in which the special tax is assessed, shall accrue on all unpaid balances of any special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest shall be added to and become part of the tax.

(E) Payment Over Time.

(1) The assessors and the tax collector are authorized to collect the actual and direct expenses incurred by the Town under Section II (D) of this Ordinance over a period of time not to exceed 10 years, provided the person assessed has agreed in writing to that method of assessment and notice of that fact has been recorded in the York County Registry of Deeds. Any such notice shall substantially follow the form included as an Appendix to this Ordinance. The municipal officers may also, in their discretion, require the person assessed to sign a promissory note or other confirmation of the repayment terms.

(2) The municipal officers shall annually file with the tax collector a list of installment payments due the municipality which shall be collected with interest at a rate determined by the municipal officers. If, within 30 days after written notice of the total amount of the annual installment payment and interest, the person assessed fails, neglects or refuses to pay the municipality the expense incurred, the municipal assessors may assess a special tax, equal to the

amount of the total unpaid assessment and charges, upon each lot or parcel of land so assessed and buildings upon the lot or parcel of land. This assessment shall be included in the same manner as state, county and municipal taxes are collected.

(a) Interest at the rate of 12% per year on the unpaid portion of assessments and charges due the municipality shall accrue from the 30th day after written notice to the person assessed and shall be added to and become part of the special tax when committed to the tax collector.

III. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

IV. Effective Date

The effective date of this Ordinance shall be March 10, 1990, on which date the Waterboro annual town meeting, in approving Article 53 of the Warrant, appropriated funds for use by the municipal officers in repairing and replacing malfunctioning septic systems on private property.

AGREEMENT AND NOTICE PURSUANT TO 30-A M.R.S.A. §3444

We, _____
confirm that a malfunctioning domestic waste water disposal
system located on our property has been removed and replaced at
the expense of the Town of Waterboro. The property on which this
system is located is described in a deed dated _____
and recorded in the York County Registry of Deeds in Book _____,
Page _____. This Notice is to confirm our agreement to the
assessment and collection of costs and charges related to the
construciton and installation of that system over a period of
time not to exceed ten (10) years as provided in 30-A M.R.S.A.
§3444. We understand and agree that the Town will impose
interest on any installment payments which are not paid within 30
days of the due date, and that overdue installments can be
collected by placing a lien, similar to a municipal tax lien, on
our property.

Dated _____

Witness

Witness

Witness

STATE OF MAINE
YORK, ss.

Personally appeared the above named _____
and acknowledged the above instrument to be his/her free act and
deed.

Notary Public