

STR Task Force meeting, Monday, September 12, 2022

In attendance:

15+- community member participants in person (CM)

20+- participants via Zoom (CM)

Anne Bordianeau (AB) and Robin Saunders (RS), co-moderators

Shannon Maritnez (SM), Town Manager and Allyson Trager (AT), Administrative Assistant

Meeting called to order at 5:05PM

AB: Introductions, review of Task Force work so far.

SM: Review of STR draft ordinance that was made available for public comment. Will send revised copy after meeting for further public comments. Planning Board Master Plan meeting on 9/15/22 where they will be discussing the draft. Thereafter the ordinance draft will transition to them and they will hold meetings for further community input.

Some things may not be open to further discussion, such as Dewey Beach. Reviewed history. Going forward will continue with one guest pass per household for the beach. Hopes to have an on-line solution in the future for obtaining the guest pass.

Reviewed current ordinances related to "Tourist Homes" and short term rentals. Tourist homes are permissible and are compliant with current ordinances. Short term rentals are not identified in current ordinances but are working to make them allowable, compliant, and regulated.

The introduction of the draft ordinances has been shortened and more concise. Removed the suggestion that STRs only be owned by residents of NH. This would not be legal.

What is highlighted in red on the draft ordinance is what the Planning Board will be discussing. Michael Marquis, Town Planner, has gone thru the document and will assist the Planning Board to take it from the conceptual phase to town ballot. Will need to be "married" with the current ordinances.

What is not highlighted becomes part of the registration phase. This is a 2-pronged approach: ordinances first then the Board of Selectmen passes legislation for the registration process.

The blue within the red highlights are where definitions are needed.

SM read the first 3 highlighted sections.

CMs questions / comments include: Is there a definition for "fixed foundation"? Some lake houses are built on stilts or others on slabs. Dwelling units definition – is this a change or in addition to previous definition?

SM: Will become a new definition married together as two paragraphs.

SM: The language of “hosted” vs “non-hosted” was decided to be called owner occupied and non-owner occupied. SM read the definitions per the draft.

Also removed the seven-day minimum stay statement from the draft. Might not need a definition of “seasonal rental” as short term and long-term rentals will be defined.

CMs questions / comments include: Number of occupants per bedroom. Two people per bedroom maximum seems restrictive for houses that utilize pull out couches, bunk beds, etc. Or, have a small child that rooms with parents. Would this be an across-the-board ordinance, which would have a big impact on all Sunapee homes, not just STRs? Is “taxable structure” going to be defined?

SM: Need to prevent over crowding for safety reasons as well as water / sewer use. Will re-visit this after more research. Will ask about the taxable structure definition.

Read the parking ordinances as currently written.

Location identification per current zoning districts explained. Currently Rural Residential and Rural Lands zones allow tourist homes by special exception only.

CMs questions / comments include: The Master Plan work can help guide some of these decisions about zoning districts. The “special exception” criteria were read. How many STRs are in the rural districts – how many would be affected? Would the grandfathering clause apply to tourist homes in rural districts?

SM: Tourist homes would be grandfathered, but every tourist home and STR will be required to go thru the registration process.

CMs questions / comments include: Regarding the 120 day occupancy in the “owner-occupied” definition. Needs more clarification of what “occupied” means. Several scenarios discussed. CM also asked if the town has a “line of sight” of investor owned STRs vs family-owned STRs, and what that data shows?

SM: Don’t have that data yet, but the registration process would help identify that information.

More research needs to be done on several things. Moving forward comments continue to be welcome.

September 15, 2022, Planning Board first Master Plan meeting. They will also provide various feedback opportunities in the coming months.

Next steps to include: deciding on a STR management company – two contenders, Gov OS and Granicus, info sessions are posted on Manager’s web page. In near future will also be discussing the STR fee structure and registration process. Granicus next check-in / info sharing on September 19<sup>th</sup> at 4PM.

Meeting adjourned at 6:07PM.

Respectfully submitted,

EM Hoekstra

## **Town of Sunapee**

### **Short Term Rentals**

Sunapee recognizes the growing trend by property owners to provide accommodations in their homes to travelers. This type of accommodation can be beneficial and, if regulated, as short-term rentals (STRs), provides a means of assisting property owners to keep properties in good order which, in turn, assists in stabilizing home ownership, maintaining property values, providing affordable housing, and strengthening the economy of the town of Sunapee.

With appropriate controls on the manner, method and operation of short-term rentals, neighborhoods will continue to thrive without undue commercialization and disruption. The primary and overarching purpose of a neighborhood is as a residential community. The regulation of short-term rentals, with the introduction of requirements, safeguards, and community review, will improve and moderate this growing trend.

Upon review of multiple regulations and ordinances across the state of New Hampshire, the following themes were noted; the protection of town residents and properties, provision of safety inspections, enforcement of parking and noise regulations and limiting strain on town natural and municipal resources.

Due to the permissive nature of Sunapee ordinances, Short Term Rentals are currently not allowed in Sunapee. Since many STR's are currently in operation in the town (by some counts over 200), it is prudent to enact new ordinances to provide for the registration and regulation of short-term rentals.

Additionally, since a tourist home (owner occupied STR) is one type of short-term rental, this ordinance will allow both owner occupied and non-owner occupied short term rentals. The term "tourist home" will be eliminated from the Sunapee ordinance to avoid confusion and ensure that all transient lodging not licensed by the State of New Hampshire is handled consistently and fairly by the Town of Sunapee.

By application of the regulatory framework contained in this ordinance, the short-term rental of dwelling units can have a positive effect on the health, safety, and welfare of the community by providing a flexible transient housing option that allows travelers safe accommodations while contributing to the local economy. This will give Sunapee homeowners an opportunity to hold property in difficult economic circumstances or as an investment, while balancing these regulations to also protect the integrity of the residential and rural residential neighborhoods.

Due to the permissive nature of Sunapee ordinances, Short Term Rentals are currently not allowed in Sunapee. As a result, Article VI (6.32) Compliance with the "Grandfathered Rights

Policy” for the Town of Sunapee will be followed. Therefore, all existing illegal uses will not be grandfathered in through this ordinance.

## **ORDINANCE**

**DECLARATION OF PURPOSE:** the Purpose of this Ordinance is:

- 1) to establish the minimum standards governing the condition and maintenance of dwelling units offered for rent with the goal of ensuring that they are essential to make them safe, sanitary, and fit for human habitation,
- 2) to authorize the inspection of such dwellings and if necessary, the condemnation of dwellings unfit for human habitation and citing penalties for violations, and
- 3) to define certain responsibilities and duties of owners and occupants of such dwellings.

**APPLICABILITY:** The “**Rental Housing Ordinance of Sunapee, New Hampshire**” shall apply to the following, hereinafter referred to as “Unit”:

- Non-owner-occupied dwellings including single family dwellings, two family dwellings, multifamily dwellings and condominiums.
- Owner-occupied dwellings with rented room(s).

Sec.???. Definitions. The following definitions shall apply:

a) **Bedroom or Sleeping Accommodation:** Any room in a residential structure which is greater than 70 square feet in area, which is susceptible to present or future use as a private sleeping area, which has at least one window and one interior method of entry and egress but excluding closets and bathrooms.

Shared bedrooms must have a minimum of 50 square feet per person. (State of NH Building Code)

Occupants may not use kitchens or other non-habitable rooms as a bedroom. (State of NH Building Code)

1-2 occupants requires a minimum of 120 square of living room space.

Build in occupancy:

-Look into based on community recommendations

**DWELLING:** A building or portion thereof containing one or more dwelling units.

**DWELLING UNIT:** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure. For the purpose of this definition, an independent housekeeping establishment includes the following minimum attributes: space devoted to kitchen facilities for the storage, preparation and consumption of food (including counters, cabinets, appliances, and a sink for washing dishes), space for one or more bedrooms for sleeping, and a bathroom with a tub and/or shower. (A bar

equipped with a bar-sink and an under-the-counter refrigerator shall not constitute kitchen facilities.) (Amended 3/10/2020)

The building shall be affixed to a permanent foundation and shall have adequate provisions for water supply and sewage disposal, either by connection to town systems or through private systems in compliance with state law. This use shall not include transient occupancies such as hotels, motels, short-term rentals, vacation rentals, or rooming or boarding houses.

**DWELLING, SINGLE FAMILY** - A single residential building containing one dwelling unit designed for occupancy by not more than one family.

The building shall be affixed to a permanent foundation and shall have adequate provisions for water supply and sewage disposal, either by connection to town systems or through septic systems in compliance with state law. This use shall not include transient occupancies such as hotels, motels, vacation rentals, or rooming or boarding houses.

**DWELLING, TWO FAMILY** - A single residential building containing two dwelling units, designed for occupancy by not more than two families.

The building shall be affixed to a permanent foundation and shall have adequate provisions for water supply and sewage disposal, either by connection to town systems or through private systems in compliance with state law. This use shall not include transient occupancies such as hotels, motels, vacation rentals, or rooming or boarding houses.

**DWELLING, MULTI-FAMILY** - A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

The building shall be affixed to a permanent foundation and shall have adequate provisions for water supply and sewage disposal, either by connection to town systems or through private systems in compliance with state law. This use shall not include transient occupancies such as hotels, motels, vacation rentals, or rooming or boarding houses.

**DWELLING, INVESTOR-OWNED**- A dwelling unit that is not the actual and principal residence of its owner.

**RENTAL**: The rental, lease, or other contractual arrangement for the occupation of a dwelling unit, or any portion thereof, by a tenant or occupant for residential and/or dwelling purposes, for any period of more than thirty (30) consecutive days.

**SHORT-TERM RENTAL**: The rental, lease, or other contractual arrangement for the occupation of a one to two family dwelling by a tenant or occupant for residential and/or dwelling purposes, for any periods of less than thirty (30) consecutive days. Short-term Rental shall not include duly licensed and permitted hotel, motel, bed and breakfast homes, and community residences.

- **Non-Owner Occupied short-term rental:**

- An additional use of a single-family, owner-occupied dwelling where the owner has vacated the premises during the period of rental
- Owner Occupied short-term rental: An additional use of a single-family, owner-occupied dwelling where the owner is continually present on the premises during the period of the rental.

Sec. Registration, inspection, and license requirements.

c) Local Representative: A person designated on a registration form filed under this ordinance as the person authorized to receive any process, notice or demand required or permitted to be served upon the owner of the premises and required to respond to questions/complaints from tenants, neighbors, and Town staff on a 24/7 basis. A local representative may, but need not, also serve as property manager.

d) Registrar: **Code Compliance Officer**

e) Resident: The record owner of a parcel of real estate who (1) physically resides in the subject property for no less than **120 days per year**; and (2) has designated the subject property as their legal residence for a driver's license, voter registration, State identification card or other suitable form as proof of domicile. Investor-owned da) All Short-term Rental units shall be registered by the record property owner thereof with the Registrar, and a permit and license issued before any use of the Short-term Rental Unit occurs.

b) At the time of registration, the dwelling unit and Short-term Rental unit shall be inspected for a fee by the Code Compliance Officer or his/her designee and the Sunapee Fire Chief. Thereafter, the dwelling unit shall be inspected by the Code Compliance Officer each two (2) years thereafter, and by the Fire Chief each two (2) years thereafter, to be completed no later than the date of current permit expiration. The property owner must post the permit and occupancy information clearly within the rental unit. This must also include information regarding the private trash pickup, lake, and Town rules, etc. signed on state safety code compliance with the permit application period filing of the requisite year. The purpose of the inspection is to determine the occupancy limit of the unit pursuant to **Sec ???** of this ordinance and compliance with the relevant State Building Codes, Fire Codes and Town Ordinances, including, but not limited to smoke and CO detectors are installed and compliance with the State Fire Code for dwelling units and Short-term Rental units and to determine the number of off-street and on-street parking spaces required and available. The Code Compliance Officer or his/her designee shall issue a Short-term Rental permit stating the maximum occupancy for the dwelling unit. The Code Compliance Officer and/or Fire Chief may conduct an inspection of any Short-term Rental unit upon complaint or for any other reason pursuant to the General Laws, applicable regulations and/or Town Ordinances. Failure of the owner of the Short-term Rental unit to allow inspections shall constitute a violation of this ordinance and the STR permit will be revoked.

c) Any deficiencies found by the Code Compliance Officer or Fire Chief must be satisfactorily addressed by the record owner prior to the use or re-use of the Short-term Rental unit; engaging or continuing the Short-term Rental while deficiencies are outstanding shall be a violation of this ordinance.

d) Upon issuance of a Short-term Rental Unit permit, the record owner or their agent may apply for a permit to use the Short-term Rental Unit from the Planning and Zoning Office. Application forms for the issuance of a Short-term Rental Unit permit shall be prepared and issued by the Code Compliance Officer. A Short-term Rental Unit permit shall expire on April 30th of each year and must be renewed by the holder, unless revoked, rescinded and/or returned. Any Short-term Rental permit issued prior to April 30th of any year shall thereafter expire and require renewal annually prior to April 30th of the year issued.

e) One guest pass, for use at Dewey Beach and George's Mills beach, will be issued at the time of registration. Each pass shall bear an initial cost of \$25 dollars and a \$100 replacement fee.

f) STR owners will ensure their renters are in compliance with all Town and Zoning ordinances. Violations to this will result in a citation and a fine.

g) All STR units will be connected to Town water and Sewer or well and septic.

h) All STRs will be registered with the State for rooms and meals tax. Owners must provide proof of State registration with the permit application. Short Term Rental permits are not transferrable and must be renewed with property ownership changes.

Sec. ??? Registration and Permit form.

a) The rental registration form at a minimum, shall indicate the Tax Assessor's plot and lot number, address of the rental dwelling and Short-term Rental unit, the number of Short-term Rental units therein, the maximum occupancy, the name, permanent mailing address, email address, and telephone number of the record owner and of his or her registered local representative (s), if different than the owner. Copies of the registration form, with 24 hours, 7 days a week contact information for the record owner and, if applicable, the local representative, and which will be held on file by the Code Compliance Officer, and available to the Sunapee Police and Fire Departments.

b) The Short-term Rental permit form shall be issued by the Code Compliance Officer, who is authorized to require such relevant and appropriate information as deemed necessary to constitute a complete application for review and action, with final sign off being provided by the Town Manager.

Sec. ????. Filing date; term.

a) On or before April 30 of each year, the record owner of the rental dwelling unit shall file the completed rental registration form with the Planning and Zoning Office and license application with the licensing authority, which registration and license shall be valid for a one- year period from January 1 to December 31 of the following year if approved for renewal by the Code Compliance Officer and Town Manager. If the property is registered and licensed during the calendar year, the registration and license shall be valid until April 30th of that same year. Failure of the record owner to properly register and/or license the Short-term Rental dwelling unit shall constitute a violation of this ordinance.

Sec. ??? Registration fees.

a) There shall be a registration fee for Resident Short-term Rental units of three hundred and fifty (\$350.00) dollars for each short-term rental covered under the provisions of this ordinance. A separate fee may be charged for inspections by each the Code Compliance Officer and Fire Chief

Sec. ??? Occupancy terms, limits, and parking requirements.

b) A Short-term rental is only permitted in a dwelling unit, or any portion thereof, by a tenant or occupant for residential purposes, Short-term Rentals are prohibited in accessory structures and structures that do not constitute a dwelling unit or portion thereof.

c) The maximum occupancy for the dwelling and Short-term Rental unit shall be two persons per bedroom.

d) Parking for one, two, three family residential units shall be as follows:

- Single-family dwelling (up to four bedrooms) = 2 spaces plus ½ space/bedroom for each additional bedroom over four
- Two family dwelling (up to eight bedrooms) = 4 spaces plus ½ space/bedroom for each additional bedroom over eight
- Total required spaces must be rounded up to nearest whole space
- Garage spaces may be counted as parking spaces for residential uses.
- Three or more dwelling units and commercial uses must meet the parking guidelines in the Site Plan Review Regulations (Amended 3/08/2022)

e) No tents, storage units, boats, recreational vehicles, and other non-taxable structures shall be used as a short term rental and/or occupied while on the Short-term Rental property.

f) The record owner shall be jointly and severally liable for compliance with the Short-term Rental Ordinance provisions, including but not limited to, rental term limits, occupancy limits and parking requirements. Non-compliance with any of the provisions of this ordinance or any other Code of Ordinance provisions of the Town of Sunapee by users of the Short-term Rental unit shall constitute a violation of this ordinance.

g) ACCESSORY DWELLING UNITS may not be used as short-term rentals. The purpose of the ADU is to provide societal benefits for aging homeowners, recent college graduates, care givers, disabled persons, etc...

Sec. ??? Owner's obligations.

a) All Short-term rental unit advertisements shall contain an accurate and detailed description of the Short-term Rental unit and the limitations and requirements contained in this ordinance for use of the Short-term Rental unit.

b) All Short-term Rental unit agreements shall attach a copy of the applicable short-term rental registration and permit for the premises. The Short-term Rental unit agreement shall state that the renter may be held legally responsible and liable for any violations of law committed by the renter or by other occupants or guests while at the Short-term Rental unit premises, including violations of the laws and Sunapee ordinances pertaining but not limited to noise, fireworks, disorderly conduct, disturbance of the peace, keeping dogs on a leash, parking, trash maintenance and disposal, dwelling occupancy limits, and lake rules.

c) The owner and/or local representative shall obtain accurate and up-to-date information, including the names, home addresses and phone numbers of the renters, the date of the rental period and a copy of a state issued driver's license or identification card or passport from the renter. The owner and/or local representative shall maintain this information throughout the term of the Short-term Rental agreement and for 90 (ninety) days thereafter; and shall make this information available to Town officials who are lawfully investigating or prosecuting any offense reasonably believed to involve one or more of the renters. Failure of the record owner and/or local representative to gather, maintain or provide this required information shall constitute a violation of this ordinance.

Sec. ??? Posting of notice by owner.

a) The record owner is required to state in all short-term rental advertising the maximum number of bedrooms, maximum number of persons, and number of designated on-site parking spaces. The record owner shall be responsible to post in plain view within the rental dwelling unit, general information regarding Town ordinances with which tenants must comply, dwelling occupancy limits, and any other pertinent ordinance, or law information which the Town may deem appropriate. In addition, notice of water conservation, trash pickup, and lake rules shall also be posted. The record owner of the Short-term Rental dwelling unit subject to the provisions of this ordinance shall post the registration form and permit required by this ordinance to the inside of the primary access door to said Short-term Rental dwelling unit so as to allow the lease and registration form to be readily available for inspection by police, zoning, building, or officials of the Town of Sunapee. Non-compliance of posting requirements shall be a violation of this ordinance.

Sec. ??? Representative

a) The record owner shall designate on the registration form, if different from themselves, three (3) individuals or a Property Management company who will respond in person or by phone in a

timely manner as the record owner's local representative, who shall be authorized to receive any process, notice or demand required or permitted to be served upon the owner of the premises.

b) The local representative must be authorized by the record owner to respond to tenant and neighborhood questions or concerns on a 24/7 basis. The local representative shall serve as the initial contact person if there are questions or complaints regarding the use of the dwelling unit for short-term rentals. The local representative promptly shall respond in person or via telephone to those complaints to ensure that the use of the dwelling unit complies with the requirements of this ordinance, as well as all other applicable Town ordinances pertaining to parking, noise, disturbances, or nuisances, as well as state law pertaining to the consumption of alcohol and/or the use of illegal drugs.

c) The failure of the record owner or local representative promptly to respond in person or via telephone to the Sunapee Police Department or other Town Official inquiries and address and resolve any situation, complaint, or violation within two (2) hours shall be considered a violation of this ordinance.

d) The record owner may change the designation of the local representative by filing an amended registration application including the name, address, and telephone number of the new local representative. Failure to notify the Town of any change in the local representative shall constitute a violation of this ordinance.

Sec. ??? Enforcement; penalty for violation; revocation of permit.

a) For the purposes of enforcement of the provisions of this ordinance, the BOS of the Town of Sunapee hereby designates and authorizes the Code Compliance Officer and other Town officials as needed to implement, investigate, enforce, and prosecute the provisions of this ordinance.

b) Violations of this ordinance shall be enforceable through issuance of a Violation Citation and Summons by the Code Compliance Officer or his or her designee, or other Town officials such as police and fire of the Town and citations shall be heard and adjudicated by the District Court or other court of appropriate jurisdiction.

c) Violations shall be punished in accordance with, and the Town shall have all the powers and remedies provided by, Sec. 1-15 of the Sunapee Ordinances, which include and provide for a first offense penalty of \$250 and a second and subsequent offense penalty of \$500 where each day counts as a distinct and separate violation. The third offense penalty of \$750 will also result in the revocation of the owners Short term rental permit for the following twelve consecutive months.

d) The Code Compliance Officer may provide in the Violation Citation that upon admittance of the violation the fine may be paid in person, by mail or electronic payment, or other disposition imposed, prior to the first appearance before the District Court.

e) The Zoning Enforcement Officer may revoke a Short-term Rental permit and license issued under this ordinance if three or more notices of violation(s) of this ordinance are issued by the Zoning Enforcement Officer for the same property within a consecutive twelve-month period.

No new permit for a Short-term Rental Unit shall be issued to the property owner for the same property for a period of twelve consecutive months following the revocation.

Sec. ??? Implementation.

a) This ordinance shall take effect upon passage

Sec. ??? Limits on total Short-term Rental Units licensed.

a.) The Town of Sunapee reserves the right to set limits on the total number of Short-term Rental units permitted per Zone in the event that that number presents a risk to safety, preservation of natural resources, or it becomes a number not in keeping with the Master Plan.

b.) The BOS may act to set the limits at their discretion upon a showing of need based on finding disruption to the quiet enjoyment of a residential area, negative impact on the seasonal and/or affordable housing rental markets, or impairment to the integrity of the residential character of particular zones.

c.) In keeping with the Town Master Plan and ordinances, Short Term rentals are allowed by right in the following districts: **Village Commercial, Village Residential, Mixed Use 1, Mixed Use II, Mixed Use III, Residential; allowed only by special exception in rural residential, and not allowed in rural districts**

**BED & BREAKFAST:** A single-family, owner-occupied dwelling accommodating transient guests for a rental period of no more than two weeks and with meal service limited to breakfast

**HOTEL, MOTEL, AND INNS (REPLACE):** A building or group of buildings that contains two or more living accommodations constituting the temporary abode, for 30 days or less, of six or more transient persons whose primary residence is elsewhere. "Hotel" includes hotel, motel, condominium hotel, timeshare, or other type of interval occupancy or ownership, together with indoor or outdoor facilities for dining, relaxation, or recreation for such occupants. "Hotel" may also include customarily accessory facilities, services, and activities, such as outdoor recreation, for guests and the general public.

**TOURIST HOMES –DELETE**

**LODGING & BOARDING –DELETE**

**Transient:** Residing in one location for 30 days or less

**Non-transient:** Residing in one location for more than 30 days

## Septic System Rules to Protect Water Quality and Human Health

### Problems that can result from septic systems

- Septic systems that are poorly designed and improperly maintained are known to contaminate drinking water, wells and surface waters such as lakes and rivers.
- Contaminants released from septic systems include bacterial and viral pathogens, pharmaceuticals, and nutrients including phosphorus and nitrogen. These contaminants have negative consequences for human health.
- Nutrients added to lakes, rivers and streams can also lead to algal and cyanobacteria blooms, further reducing water quality, impacting human health, and disrupting important ecosystem processes.
- Excessive levels of phosphorus have already resulted in the impaired status of 65 lakes in New Hampshire.
- While failing septic systems result in conditions that are obvious (soggy lawns and sewage backed up in basements), poorly maintained systems can leak effluent in ways that are not always apparent to property owners.

### Current state of affairs regarding septic systems in Sunapee, NH

- Currently, approximately 40% of Sunapee residents rely on septic systems for wastewater disposal.
- If a septic system fails, municipal health officers can require a remedy within 90 days under RSA 128:5.
- Property owners with septic systems are required “to operate and maintain said system in such a manner as to prevent a nuisance or potential health hazard due to failure of the system” under RSA 485-A:37. However, the frequency and manner of maintenance are not specified, and the burden is placed on “the department or its duly authorized agents” to perform the necessary inspections and evaluations to determine if these criteria are being met.
- For all practical purposes, the current RSA’s regarding septic systems are only enforceable *after* a problem has occurred and contaminants have already been released.
- We propose adopting rules that would more effectively *prevent* the contamination of surface and groundwater by septic system sewage and effluent.

## Frequently Asked Questions Regarding Septic System Regulations

**What are normal practices regarding the frequency of septic maintenance in other geographies?** Required septic pump outs, usually every 3 years, are standard law in many critical watersheds. For example, that is the law if you are in the New York City watershed, or in the watershed of the Delaware Water Basin, or, in New York state, if your lake has been designated as an impaired lake.

**Is 3 years the norm?** While some authorities require or recommend annual or bi-annual maintenance, the most common is a recommendation that septic systems be inspected and pumped at least once every 3 years.

**What about seasonal properties, single occupancies, or other sparse usage instances?** Many authorities allow an appeal process for such situations with an allowance for frequency of maintenance to be dropped to as little as once every 7 years.

**Do new septic systems require inspection in NH?** Yes. Currently NHDES inspects septic system installations when they are approximately 90% complete.

**Does the Town of Sunapee have the authority to regulate the maintenance of septic systems?** Yes. NH RSA 147:10 grants municipal health officers, with the approval of the Board of Selectmen (NH RSA 147:1), authority to adopt regulations that will ensure that wastewater disposal systems shall not be a nuisance or injurious to public health. NHDES has required approved plans, inspection and operational approval for all subsurface systems since 1971 and since 1967 within 1000 'of a lake.

**Are there any rules around the sale of a property with a septic system?** In most of New Hampshire, no. But many watersheds, states, and municipalities require the testing and certification of a septic system **prior** to allowing the sale to go through, or prior to occupancy. Normally, a part of that process is to assess the likely load on the system based upon the number of bedrooms. This theoretical load is then measured against associated guidelines and required to be brought into compliance. Such guidelines, based on the number of bedrooms, currently exist and are being used by NHDES for new septic systems. An out-of-state example of required compliance would be that, in Massachusetts, Title V requires inspection at time of property transfer.

**Could septic system evaluations be required when a building permit is sought for any work on a structure, whether involving increase in load or not?** The NH Shoreland Septic System Study Commission says yes. This would be an opportune time to locate and assess septic systems but would require involvement of local building inspectors or code enforcement officers.

**Can proper septic maintenance really make a difference?** Yes. While it may be difficult to precisely calculate the phosphorus load into NH lakes from septic systems (as opposed to other non-point sources), there have been measurable reductions in phosphorus levels – and

improvement in overall water quality - in several lakes where there have been systematic efforts to identify and upgrade problematic septic systems.

**How much does a home septic inspection cost?** Typically, between \$400 and \$700.

**Are there ways to help families for whom proper septic maintenance presents a real financial challenge?** Some NH watershed associations with existing watershed management plans have been able to assist homeowners with 319 grant funds. Some states, including New York and Rhode Island, have revolving loan funds and/or grant programs available to defray some of the cost of system replacement and advanced treatment.

**Is there a certification for septic maintenance providers in NH?** Yes. Certification is available through the NH Office of Professional License and Certification in Concord.

**Do you have any exemplary success stories?** Yes. The Town of Putnam Valley, NY, adopted a Septic Tank Pump-Out Regulation in 2016 (<https://ecode360.com/31537445>). Roaring Brook Lake resides entirely within Putnam Valley and was having a decline in water quality that they believed was due, in large part, to poorly maintained septic systems. In 2017, the first year that the septic pump-out law went into effect, 80% of the homes around Roaring Brook Lake pumped. The quality of the water in the lake improved dramatically.

**Have any NH towns adopted regulations that might help Sunapee move forward in this process?** Great question! There is a lot of activity in this area by many towns in NH, so there is much to borrow from. Chesterfield (home to troubled Spofford Lake) seems to have done a particularly good job in their 2021 regulations, and several other towns are modeling their regulations after those. We will go into more details about this in what follows.

## **Proposed Septic Rules for the Town of Sunapee**

NH RSA 147:10 grants municipal health officers, with the approval of the Board of Selectmen (NH RSA 147:1), authority to adopt regulations that will ensure that wastewater disposal systems shall not be a nuisance or injurious to public health. To protect public health and the quality of groundwater and surface water, and to minimize malfunctions of wastewater treatment (septic) systems, LSPA recommends adoption by the Town of Sunapee of the following rules, which would apply to wastewater treatment systems located wholly or in part within the Town.

### Maintenance

Regular maintenance including inspection and pumping every three years, submittal of certificate documenting same by owner. A copy of a receipt from any qualified septic tank pumping service will be evidence the requirement has been met.

### Sale of Property

Both a site assessment and septic system evaluation before a property is sold or transferred, with the relevant reports disclosed to prospective buyers. These reports should also be provided to the municipality and NHDES.

### Construction

Prior to any renovations or building, the owner shall provide evidence to the Code Compliance Officer that septic facilities are adequate for both units according to the standards of the Town and the NHDES. (Reference: Exeter)

Site assessments by NH certified septic designer for new construction.

Require septic system evaluation by the Code Compliance Officer when a building permit is sought for any work on a structure, whether involving increase in load or not. (Reference: NH Study 2020)

### Change of Use

Prior to commencing any modification, additions, replacement, or use of any structure, including the conversion or occupancy of a seasonal dwelling to a year-round dwelling, which may result in any increase in the load on a sub-surface sewage disposal system, the owner of the residence shall provide documentation to demonstrate that the existing septic system is capable of handling the increased usage, or else a state approved septic system will be installed. (Reference: Harrisville)

If insufficient capacity is determined for the proposed occupancy, use, or loading, a new wastewater disposal system design shall be required by both the Town prior to the issuance of any permits. (Reference: Amherst)

### Short Term Rental Property

Short Term Rentals on septic systems must show their occupant load does not exceed the capacity of their septic system. Either a State of NH ISDS Permit showing approval for the proposed occupant load or a letter from a NH Licensed Septic Inspector stating the septic system is appropriately sized for the proposed occupant load are acceptable proof. (Reference: Conway).

### System Failure

Installation of a replacement NHDES approved wastewater disposal systems required by any of the following conditions.

- Where the System is in failure.
- Where a new Building permit application to increase the number of bedrooms beyond the operational approval limits on file with NHDES.
- Where there is no valid prior approval and existing system does not meet system evaluation and certification requirements.
- Where there is no valid prior approval and upon sale or transfer of property, operating approval of a replacement system is required prior to occupancy. (Reference: Chesterfield)

### Costs and Penalties

\$25 to be paid to the town with each septic evaluation and certification report.

Violation and Penalties: \$100 for each month a required septic evaluation and certification report is late unless property use is discontinued. Violation of any other provision of these regulations with written notice providing a reasonable time limit (up to but not more than 180 days) for the satisfactory correction. Systems in failure require immediate corrective action approved by the health officer before further use. Assessment of a civil penalty of \$100 per day for each day the violation continues after notification. The town may petition the Superior court for an injunction and an award of attorney fees. (Reference: Chesterfield)

### Funding

For property owners who are unable to afford septic system evaluations or to upgrade or replace underperforming ones, there are several possible sources of financial support. These include Clean Water Act 319 grant funds from watershed associations with existing watershed management plans, (future) state-sponsored revolving loan funds and/or grant, municipal bonds and private donations.

### Waivers

Replacement of septic systems on non-conforming grandfathered lots and allowance of property owners to continue using pre-1967 waste disposal systems not in failure. Holding tanks where not practical to install a septic system. (Reference: NH Study 2020)

Owners of residential properties occupied by two or fewer people and owners of properties only used seasonally may apply for a waiver of the three-year maintenance and inspection

requirement. A waiver may be granted after review of water consumption records and determination less frequent pumping is warranted. No waivers of maintenance intervals of more than seven years. No waivers are granted for properties within the Shoreland Protection Overlay District or non-residential properties, including short-term rentals. (Reference: Rye)

When septic system regulations would impose an unnecessary hardship upon an applicant proposing to repair or replace an existing wastewater disposal system, requirements may be waived so as to provide reasonable and functioning facilities. In all other instances, requests for waivers from specific requirements of this ordinance must be approved by the Town. Prior to granting a waiver, the Town shall find, that strict conformity would pose an unnecessary hardship to the applicant; and the granting of the waiver will not be contrary to the spirit and intent of this ordinance; or specific circumstances relative to the property in question or special conditions inherent in the property itself indicates the waiver will properly carry out the spirit and intent of this ordinance. (Reference: Amherst)

#### Adoption

Residences having septic pumped within three years of enactment of the regulation can submit documented proof of pumping with a valid receipt for the service. (Rye)

Within 36 months of the adoption of this regulation, the property owner must provide the Town with a paid receipt from the septic contractor, stating the lot owner's name, the street address and Tax Map designation of the lot, the pump-out date; and the inspector's report of any observed functional irregularities and/or deficiencies in the system and recommendations, if any, for additional maintenance and/or remediation. (Reference: Roaring Brook, NY)

For short-term rentals, this requirement must be adhered to within twelve months of the adoption of regulation.

Respectfully submitted,

Elizabeth B. Harper, PhD  
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## **Additional Resources**

EPA Septic System Information

<https://www.epa.gov/septic>

New Hampshire Department of Environmental Services – Septic

<https://www.des.nh.gov/land/septic-systems>

New Hampshire Shoreland Septic System Study Commission Final Report October 30, 2020

<https://www4.des.state.nh.us/blogs/lmac/wp-content/uploads/2020/11/2020-10-30-NHShorelandSepticSSC-Final-Report.pdf>