

Appendix D: Selected Model Laws

The following local regulations were selected for inclusion in Appendix C by the Keuka Lake Land Use Planning Guide Working Committee. The individual laws were selected based on a variety of attributes, including ease of interpretation, beneficial use if applied on a watershed-wide scale, and overall comprehensiveness.

**Yates County Legislature
RESOLUTION NO. 387-91**

**SUPPORT THE “TRANCIK” STUDY-
YATES COUNTY LOOKING AHEAD**

WHEREAS, Roger Trancik was commissioned to prepare a Planning and Design Guide for Yates County, and

WHEREAS, that Guide has been completed and delivered to the Yates County Planning Board and the Yates County Legislature,

NOW, THEREFORE, BE IT RESOLVED that from a conceptual standpoint this Board endorses the Guide, and be it further

RESOLVED, that the Board would support individual municipal consideration of the Guide in developing and implementing their Master Plans and subsequent planning and land-use laws, and be it further

RESOLVED, that copies of this resolution be forwarded to the Office of Economic Development and Planning, the Historian, the Chairman of the Planning Board and Roger Trancik.

Unanimously adopted.

**TOWN OF JERUSALEM
Local Law Number 3 of 2008**

REGULATIONS FOR CONSTRUCTION ON STEEP SLOPES

Be it enacted by the Town of Jerusalem as follows:

§ 1. Intent and purpose.

The purpose of this article to control construction on steep slopes. This article is intended to regulate individual and subdivided lots to protect the health, safety and welfare of the general public by maintaining and protecting the natural terrain, waterways, wetlands and vegetative features and provide safe building sites by preventing surface erosion, creep and sudden slope failure, preserve farmland and open space, prevent flooding, stormwater runoff and preserving areas of wildlife habitat.

§ 2. Definitions.

As used in this article, the following terms shall have the meaning indicated:

DISTURBANCE - Preparing land for construction or re-construction, such as clearing, grading and filling or the building of structures, including driveways, retaining walls and drainage systems.

STEEP SLOPES -- Ground areas with a slope of 15% or greater.

CERTIFIED PROFESSIONAL — licensed professional engineer, CPESC-Certified professional in erosion and sediment control or landscape architect

§ 3. Permit required; exempt activities.

A. It shall be unlawful to create any disturbance, other than an exempt activity as set forth in this article, on any steep slope as defined by the steep slopes map or Ri area located within any existing or proposed lot or lots in the Town unless and until a steep slope permit is granted by the Planning Board pursuant to the requirements of this article. Steep slope maps will be revised as new topographic data becomes available.

B. Exempt activities. The following activities on steep slopes do not require the issuance of a steep slope permit:

- (1) Any planting of landscape materials which does not require disturbance of existing terrain.
- (2) Emergency situations, as determined by the Town Code Enforcement Officer, where the disturbance of steep slopes is required to protect persons, or property from imminent danger.
- (3) Farming activities using sound management practices.
- (4) If the slope of the site can be documented as less than 15 percent, no permit is required.

§ 4. Permit procedure.

A. The Planning Board is hereby designated to administer and implement this article by granting or denying steep slope permits for all residential, commercial or agricultural construction whether on a single lot or in connection with a subdivision application.

B. An application for a Building permit in steep slope areas shall be made on forms furnished by the Planning Board and shall include the following information:

- (1) Eight copies of a site plan drawn at a scale of not less than one inch equals 30 feet, prepared by an engineer, landscape architect, or licensed surveyor, CPESC-Certified professional in erosion and sediment control or equivalent showing the lot or lots containing steep slopes the following:
 - (a) All existing and proposed natural or artificial drainage courses.

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- (b) The proposed location of all structures, including drainage, septic system, wells, waterlines and driveways.
- (c) The location of the proposed area of disturbance and its relation to adjacent properties, together with buildings, structures, roads, affected trees and affected wetlands, if any, within 100 feet of the boundaries of said area.
- (d) Existing topography of the proposed area of disturbance at a contour interval of not more than two feet. Contours shall be shown for a distance of 50 feet or greater beyond the limits of the proposed area of disturbance, if determined necessary by the Planning Board, in order to fully evaluate the application.
- (e) Proposed final contours and proposed surface materials or treatment at a maximum contour interval of two feet.
- (f) Erosion Control Plan showing proposed area of disturbance, temporary and permanent erosion control measures. (All erosion control practices have to comply with NYS standards and specifications of erosion and sediment control).
- (g) Stormwater management - The details of any surface or subsurface drainage system proposed to be installed. Calculated volume and velocity of runoff for sizing of drainage structures (i.e. culverts and diversions).
- (h) Any special reports deemed necessary by the Planning Board to evaluate the application, including but not limited to geologic or hydrologic studies or capacity evaluation.

(2) A written narrative explaining the nature of the proposal, including any future development proposals for the property and whether alternative locations exist for the proposed activity.

(3) New York State SEQR law will be followed as required by Part 617: State Environmental Quality Review of the Regulations of the Department of Environmental Conservation.

(4) All requirements of New York State phase II stormwater regulations will be met if the site exceeds 1 acre of construction disturbance.

(5) The application shall be accompanied by:

- (a) A fee in an amount to be determined by resolution of the Town Board, and
- (b) Fees for engineer's and attorney's services in an amount determined by the Town Board sufficient to defray the estimated costs of such services rendered to the town in connection with the application. The applicant shall deposit with the Town Clerk the amount estimated to reimburse the town for such costs. Any amount remaining after payment to the Supervisor for the services rendered shall be returned to the applicant upon final approval or upon withdrawal if the application is withdrawn.

C. The Planning Board may refer each application for a steep slope permit to the Yates County Soil and Water Conservation District or other certified professional for review, who shall submit a written report to the Planning Board. This report shall contain the following items:

- (1) A recommendation on whether the submission is complete and contains sufficient information for the Planning Board to perform a proper review of the submission.
- (2) A recommendation of approval, disapproval or approval with conditions of the application.

D. During its review of the application, the Planning Board shall:

- (1) Review the application to determine that the requirements of this article have been satisfied and application is complete.
- (2) Review each complete application and approve, approve with conditions or deny the application, in accordance with this article, within 60 days of the receipt of a complete application as determined by the Planning Board.
- (3) If deemed necessary, require posting of a performance bond or other security as a condition of approval, the amount of such bond or other security to be approved by the Town Board.
- (4) In a building lot or development situation that requires material removed from the site or hauled in over town roads, the highway Superintendent must be notified before work commences. In some cases it may be necessary to haul material in or out during certain times of day or year in an effort to minimize damage to the Town roads.

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E. Public hearing. The Planning Board may, at its discretion, hold a public hearing on an application for a steep slope permit. If a public hearing is held, the notice and hearing requirements shall follow proper procedures.

F. In granting a steep slope permit, the Planning Board shall find that the following conditions have been met.

- (1) The proposed activity is in accordance with the legislative intent and purpose stated in this article.
- (2) The proposed activity will preserve and protect existing streams, lakes, floodplains, wetlands and promote sound development to protect open space.
- (3) The proposed activity will not adversely affect existing or proposed drainage structures, wells or sewage disposal systems.
- (4) The proposed activity will not adversely affect any Town roads and adjacent properties.

G. After a steep slope permit is approved:

- (1) All permits shall expire on completion of the work specified therein and approved thereby. Unless otherwise indicated, the approved permit shall be valid for a period of one year from the date of issuance. The Planning Board may grant a six-month extension of this period.
- (2) Following completion of the work, the applicant shall submit a certification by an engineer, certified professional or code enforcement officer, that the completed work meets the requirements of the permit. The Town Code Enforcement Officer shall verify that the work has been completed in accordance with the permit. An as-built survey or plan shall be required to show that the work was completed in accordance with the permit.
- (3) Any proposed revision to work covered by a steep slope permit may be reviewed by the Town official. Where the Town Code Enforcement Officer or Planning Board determines that a substantial revision is required, a new application to the Planning Board is required.

§ 5. Penalties for offenses; corrective action.

Violations of any section of this law shall constitute a violation and be punishable by a fine of not more than \$250 or by a sentence of imprisonment not exceeding 15 days, or by both such fine and imprisonment.

§ 6. Effect on existing operations or construction.

All construction operations that will create a disturbance in a steep slope area will comply with the above permit.

§ 7. Effective Date.

This Local Law becomes effective immediately.

Excerpt from the Town of Seneca, NY Zoning Law

Law can be viewed in its entirety at: <http://www.townofseneca.com/zoninglaw.shtm>

Article 1: AG - Agricultural Zoning District

§ 1.0 Purpose

The AG Agricultural Zoning District is intended to preserve existing agricultural lands in the Town and protect the rural character of the area that reinforces the special quality of life enjoyed by residents in Seneca. Agriculture provides the visual benefits of open space and is an important part of the Seneca economy. The creation of the Agricultural Zoning District illustrates the Town's commitment to farming and agricultural uses as a preferred use in these districts and shall protect existing agricultural areas from suburban and urban development, encourage the continuation of agriculture, reduce land conflicts and preserve open space and natural resources.

§ 2.0 Permitted Uses

A. The following farm uses are permitted in the AG District:

- A. Boarding of animals;
- B. Farms and farm related buildings used for the storage of products or equipment located on the same parcel as the principal use;
- C. Forestry and reforestation;
- D. Game farms, fish hatcheries and fishing reserves;
- E. Manure Storage Facility (Non-CAFO) subject to the requirements of Section 82. Manure Storage Facility.
- F. Labor housing that could include a single manufactured home. Farm labor housing that includes more than a single manufactured home requires a special use permit;
- G. Nurseries, lawn/landscape services, orchards, greenhouses, vineyards;
- H. Produce stands, including only movable or temporary structures for the sale of agricultural products grown principally by the operator during the harvest season;
- I. Wildlife sanctuaries, woodland preserves, arboretums.
- J. Timber processing including the on-farm processing of timber grown on a farm operation which is included in the Agricultural District as part of Article 25AA of the New York State Agriculture and Markets Law, into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

B. The following non-farm uses are permitted in the AG District:

- A. Single family detached dwellings. There shall be no more than 1 principal dwelling unit on a single parcel, unless elsewhere provided in this law.
- B. Public and semi-public buildings;
- C. One subdivided lot as provided in this section.

(1) Effective Date. For the purpose of this section, each lot shall be identified by the Tax Map of the Town of Seneca dated _____, and single ownership shall be determined by

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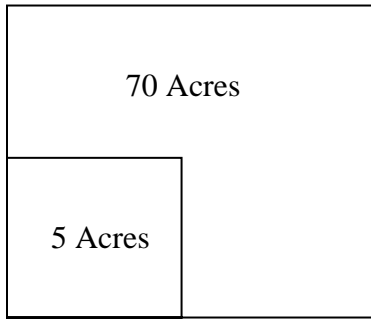
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deed filed as of _____. It is the express intent of this chapter that no parcel as defined herein may be changed or reconfigured after _____ for the purpose of applying or avoiding the restrictions of this Article. All density and/or calculation number of allowable units shall be based on the lot as identified by the Tax Map of the Town of Seneca dated _____.

- (a) Maximum Density Allowed.
 - (i) A single subdivided lot is allowed on parent parcels that are between 5 and 100 acres in total size.
 - (A) The minimum lot size for such new subdivided lot is 1 Acre.
 - (B) Minimum lot frontage is 150 feet.
 - (ii) Up to 2 subdivided lots are allowed on parent parcels that are more than 100 acres and up to 150 acres in total size.
 - (A) The minimum lot size for such new subdivided lot is 1 Acre.
 - (B) Minimum lot frontage is 150 feet.
 - (iii) Up to 3 subdivided lots are allowed on parent parcels that are more than 150 acres and up to 200 acres in total size.
 - (A) The minimum lot size for such new subdivided lot is 1 Acre.
 - (B) Minimum lot frontage is 150 feet.
 - (iv) Parent parcels that are greater than 200 acres in size are allowed 1 subdivided lot per 50 acres
 - (A) The minimum lot size for such new subdivided lot is 1 Acre.
 - (B) Minimum lot frontage is 150 feet.

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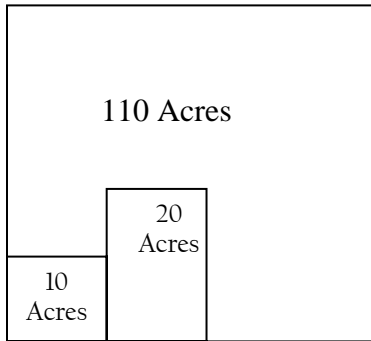
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Where parent parcel is more than 5 Acres and Less than 100 Acres in size

Example:
Parent Parcel = 75 Acres
1 Subdivided Lot is Permitted
Minimum Lot Size = 1 Acre

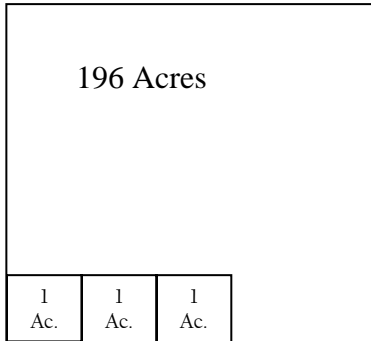
Parent Parcel = 140



Where parent parcel is more than 100 Acres and Less than 150 Acres in size

Example:
Parent Parcel = 140 Acres
2 Subdivided Lots are Permitted
Minimum Lot Size = 1 Acre

Parent Parcel = 199



Where parent parcel is more than 150 Acres and Less than 200 Acres in size

Example:
Parent Parcel = 199 Acres
3 Subdivided Lots are Permitted
Minimum Lot Size = 1 Acre

§ 3.0 Accessory Uses

The following are the accessory uses, building and structures permitted in the AG District:

- A. Decks located in the side or rear yard;
- B. Detention and retention ponds;
- C. Fences, walls and hedges subject to the provisions of Article XII – Requirements Applying to All Districts;
- D. Home occupations, low intensity;
- E. Horses or livestock, for personal use, provided there is compliance with the following standards and conditions outlined in Article XI – Additional Requirements for Specified Uses;
- F. Off-street parking for residents and guests of the principal use;
- G. Not more than one (1) commercial vehicle not associated with a Home Business;
- H. No more than 2 (two) accessory storage buildings are allowed on any residential lot;
- I. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;
- J. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;
- K. Private family swimming pools are regulated in Article XI – Additional Requirements for Specified Uses;
- L. Satellite television receiving antennas subject to the provisions of Article XI – Additional Requirements for Specified Uses;
- M. Signs subject to the provisions of Article XII Requirements Applying to All Districts;
- N. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;
- O. Terraces and patios;
- P. Other uses and structures that are customarily incidental and clearly subordinate to the principal use.

§ 4.0 Permitted Uses Subject To Site Plan Review

The following uses are allowed subject to site plan review as outlined in Article XIV - Procedures:

- A. Adult family daycare homes that have a residential-like appearance ;
- B. Bed & breakfast establishments;
- C. Family and group family daycare homes that have a residential-like appearance ;
- D. Farm labor housing that could include manufactured homes;
- E. Parks;
- F. Permanent farm stands;
- G. Places of worship;

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- H. Private airfields, landing strips or related facilities;
- I. Public and semipublic uses and buildings;
- J. Wineries.

§ 5.0 Special Permitted Uses

The following are special permitted uses subject to the conditions outlined in Article XIV - Procedures:

- A. Animal hospitals or kennels;
- B. Butcher/meat shops;
- C. Camping grounds;
- D. Essential services;
- E. Excavation Operations;
- F. Home Business which includes:
 - (1) Lawn and/or garden services
 - (2) Metal fabrication
 - (3) Agricultural equipment sales and services
- G. Woodworking ShopSite Fill that isn't included on an approved site plan for commercial or industrial uses;
- H. Stables or riding academies where animals are rented or leased;
- I. Wind Energy Conversion Systems.
- J. Portable Sawmill; excludes timbering processes as provided in §10. Permitted Uses.

§ 6.0 Lot, Area And Yard Requirements

The following lot, area and yard requirements apply to the AG District.

- A. Lot Frontage Requirements
 - (1) All Uses
 - (a) Minimum Lot Frontage – one hundred fifty (150) feet
- B. Lot Area Requirements
 - (1) Farm Uses
 - (a) Minimum Lot Area – seven (7) acres
 - (b) Maximum Building Coverage – ten (10) percent
 - (c) Maximum Lot Coverage – twenty five (25) percent
 - (2) Residential Uses
 - (a) Minimum Lot Area – 1 Acre
 - (b) Maximum Building Coverage – ten (10) percent
 - (c) Maximum Lot Coverage – twenty five (25) percent

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C. Yard Requirements

(1) Farm Uses

(a) Front Yards

(i) Minimum Front Yard Setback – one hundred (100) feet

(b) Side Yards

(i) Minimum Side Yard Setback – forty (40) feet on each side

(c) Rear Yard

(i) Minimum Rear Yard Setback – fifteen (15) feet unless adjacent to a residential use when the rear yard setback shall be eighty (80) feet

(2) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Principal and Detached Accessory – eighty (80) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Principal - thirty (30) feet on each side

(ii) Minimum Side Yard Setback – Detached Accessory – fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Principal - thirty (30) feet

(ii) Minimum Rear Yard Setback – Detached Accessory – fifteen (15) feet

D. Corner Lots

Both yards abutting streets shall be considered front yards and shall follow the regulations of this Article; all side and rear yards shall follow the regulations of this Article.

§ 7.0 Bulk Requirements

The following requirements apply to buildings constructed in the AG District.

A. Building Heights

(1) All Uses

(a) Maximum Building Height -- Residential – thirty five (35) feet

(b) Maximum Building Height – Detached Residential Accessory – twenty five (25) feet

(c) Maximum Building Height – Other Farm Structures – one hundred (100) feet

B. Floor Area

(1) All Uses

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- (a) Minimum Floor Area – one thousand (1,000) square feet

§ 8.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the AG District shall be regulated as outlined in § 90.0 Personal Wireless Telecommunication Facilities.

§ 9.0 Additional Regulations

See Article XII Requirements Applying to All Districts for additional regulations that apply to the AG District.

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The following model law was taken from Appendix 2 of the Yates County Agricultural Development and Farmland Enhancement Plan. Available online at <http://www.shepstone.net/yates/agplan.html>

Model Farm Viability and Neighbor Relation Policy

Be it enacted by the Town Board of the Town of as follows:

Section 1. Legislative Intent and Purpose

The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of _____. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agri-businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of _____, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

Section 2. Definitions

1. "Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.
3. "Agricultural products" shall mean those products as defined in section 301(2) of Article 25AA of the State Agriculture and Markets Law, including but not limited to:
 - a. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
 - b. Fruits, including apples, peaches, grapes, cherries and berries.
 - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
 - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry products.
 - f. Maple sap and sugar products.
 - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.
 - i. Short rotation woody crops raised for bioenergy.
 - j. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
4. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.
5. "Farm operation" shall be defined in section 301 (11) in the State Agriculture and Markets Law.

Section 3. Right-to-Farm Declaration

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Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation,
2. Conducted in a manner which is not negligent or reckless,
3. Conducted in conformity with generally accepted and sound agricultural practices,
4. Conducted in conformity with all local state, and federal laws and regulations,
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

Section 4. Notification of Real Estate Buyers

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchase of property within an agricultural district or on property with boundaries within 500 feet of a farm operation located in an agricultural district.

A copy of this notice shall included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

Section 5. Resolution of Disputes

1. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.
2. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.

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3. The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.
4. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
5. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each consider to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.
6. Any reasonable costs associated with the function of the committee process shall be borne by the participants.

Section 6. Severability Clause

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 7. Precedence

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

Section 8. Effective Date

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

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Town of Wayne Local Law No.3 of the Year 2006

A local law for the establishment of Wastewater Management for the Lamoka-Waneta Lakes' Protection and Rehabilitation District properties.

Be it enacted by the Town Board of the Town of Wayne as follows:

WASTEWATER MANAGEMENT

- 000-1. Purpose.
- 000-2. Applicability.
- 000-3. Definitions.
- 000-4. Disposal of wastewater.
- 000-5. Water quality protection zones.
- 000-6. Rules and regulations for disposal of human excreta.
- 000-7. Standards for wastewater systems for new construction.
- 000-8. Standards for replacement wastewater systems.
- 000-9. Wastewater system inspections and surveys.
- 000-10. Property transfer and refinancing inspections.
- 000-11. Septic tank inspection.
- 000-12. Compliance for failed wastewater systems.
- 000-13. holding tanks.
- 000-14. Aerobic and advance treatment units.
- 000-15. Severability.
- 000-16. Violations and penalties for offenses.

§ 000-1. Purpose.

The purpose of these regulations is to preserve and protect the quality of Lamoka and Waneta Lakes, including adjacent wetlands and groundwater in the Town of Wayne. These standards are established to ensure adequate performance of wastewater treatment systems, to protect public health, safety and welfare, protect the environment, and to optimize the effectiveness of the systems at removing nutrients from wastewater.

§ 000-2. Applicability.

A. The Wayne Wastewater Management Law shall be supplemental to The New York State Sanitary Code, The New York State Uniform Building and Fire Protection Code, The New York State Environmental Conservation Penal Law and any oilier laws pertaining to public health. The provisions of these rules shall be in effect for only property in the Town of Wayne which lies within the Lamoka-Waneta Lakes' Protection and Rehabilitation District (hereinafter referred to as "District" otherwise known as Zone A).

§ 009-3. Definitions.

All definitions printed in New York State Department of Health Administrative Codes, Rules and Regulations Appendix 75-A shall apply to this chapter. Additional definitions include the following:

A. AGENT or AGENT'S THEREOF- Shall mean a person requested, employed or contracted by an owner or owners, occupant or lessee to construct repair or perform excavation for the installation of a receptacle, wastewater treatment system individual water supply or element within said system(s).

B. APPENDIX 75-A — Shall mean a portion of Part 75 of the Administrative Rules and Regulations contained in Chapter 11 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10NYCRR).

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C. CERTIFICATE TO OPERATE — Shall mean a certificate issued following the evaluation of a wastewater treatment system serving a structure which generates wastewater within Zone A, Zone B or Zone C not requiring a certificate of compliance.

D. CERTIFICATE OF COMPLIANCE Shall mean a certificate issued upon request for the evaluation of a wastewater treatment system serving a property being converted, expanded, transferred or for mortgage refinancing purposes when required or requested by the owner, a lending institution, attorney, realtor, purchaser or code enforcement officer.

E. CONSTRUCTION PERMIT— Shall mean a permit issued prior to construction or repair of a wastewater treatment system, to serve any dwelling, building, structure, or manufactured home specifying the type, capacity and location of each element of the said system in accordance with this local law and/or said regulations Said construction permit shall expire one year after date of issuance.

F. CONVERSION OR EXPANSION - Shall mean the reestablishment of a dwelling on the same or nearly same foundation or foot print of a previous dwelling having been removed or destroyed. Expansion shall mean the net addition of bedrooms or wastewater generating devices adding to the total average daily wastewater discharge.

G. CRITICAL WATER PROTECTION ZONE — Shall include all properties within the Town of Wayne lying within the boundaries of the District, otherwise referred to as Zone A.

H. DISTANCES - The shortest horizontal linear distance from the newest point, structure or object to the mean high-water mark of the newest watercourse or the edge, margin or top of precipitous bank forming the mean high-water mark of a watercourse.

I. ELEMENT — Shall mean any part or parts thereof comprising a wastewater treatment system.

J. DESIGN PROFESSIONAL — Shall mean a person licensed or registered in the State of New York and authorized by the State Education Law to design wastewater systems.

K. DWELLING OR MULIPLE DWELLING — Shall mean any building that contains dwelling units, used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

L. FIOLDING TANKS — Shall mean a water tight receptacle to be utilized to correct an existing failed wastewater system when no other practical alternative exists.

M. MAJOR FAILURE — Shall mean the improper disposal of human excreta as stated in§000-6.(A, C & D).

N. MINOR FAILURE — Shall mean an undersized, deteriorated, leaking, corroded or damaged receptacle or distribution box. Additionally, any wooden, metal or ceramic wastewater system element. Additionally, the lack of a high water alarm or an improperly installed high water alarm.

O. NEW CONSTRUCTION - Any building, structure or dwelling constructed, converted or placed on a site and requiring a wastewater system and currently not utilizing a wastewater system.

P. NON-WATERBORNE - Shall mean a system or structure for urinating or defecating which is not flushed. 'Tbis includes but is not limited to privies, chemical, incinerator and compost toilets.

Q. NOTICE OF VIOLATION — Shall mean a written statement signed by the regulatory officer stating the time necessary to correct any violation of this code and stating reasonable time periods necessary to complete such steps. Each such notice shall contain a space at the end of such written statement wherein the person so notified may execute said notice and agree to the terms therein.

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R. PERSON — Shall mean an owner, individual, firm, agent, corporation, association, partnership or municipality and agents, employees and servants thereof, or any other legal entity which is recognized by law as the subject of rights and duties.

S. RECEPTACLE - Shall mean water tight structures or containers for the purpose of storage or treatment of human excreta and or wastewater.

T. REGULATORY OFFICER — Shall mean the authorized representative of the Town of Wayne including but not limited to the Watershed Inspector who additionally may be the duly authorized representative of the Town Health Officer following approval and/or designation by the Town.

U. SEASONAL USE — Shall mean a wastewater treatment system serving a structure producing wastewater discharge for not more than six continuous months.

V. REPLACEMENT WASTE WATER SYSTEM - Any construction or modification of a system for an existing structure which already has a system. Replacement of all or a portion of a system serving an existing property with an existing system shall be considered a replacement wastewater system.

W. STRUCTURE — Shall mean an assembly of materials, forming a construction framed of component structural parts for occupancy or use including buildings or dwellings.

X. WATERCOURSES - Identified in consultation with the Steuben County Soil and Water Conservation District, the Department of Environmental Conservation, Schuyler County Watershed Protection Agency, The District and published on a set of maps.

Y. WASTEWATER TREATMENT SYSTEM (otherwise known as System)— Shall mean a system of piping, tanks or other elements designed to treat, purify, dissolve, distribute and treatment of wastewater into soil.

§ 000-4. Disposal of wastewater.

A. Wastewater from any new construction shall be discharged directly into a public wastewater collection system if available and accessible within 100 feet of the property line.

B. If there is no public wastewater collection available, residential, commercial or institutional wastewater must be treated by a wastewater treatment system approved by the “regulatory officer”.

C. All properties within Zone A only must have a certificate to operate within seven years of the adoption of this law.

§ 000-5. Water quality protection zone.

A. A zone within the town shall be established for the protection of water, public health and safety. Zone A, or the “critical water protection zone”, shall include only the properties in the Town of Wayne which lies within the District.

B. All uplands of the town located within 200 feet of a watercourse shall be Zone B.

C. All other lands shall be Zone C.

§ 000-6. Rules and regulations for disposal of human excreta.

A. No human excreta, either raw or partially decomposed, may be dipped, pumped or shoveled from a septic, aerobic, holding tank and placed in or on the ground of the watershed without specific approval of the she by the Department of Environmental Conservation of the State of New York.

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B. Any septic tank, holding tank, pump tank or aerobic tank (receptacles) that shows evidence of leakage, corrosion, deterioration or damage shall be considered a minor failure and must be replaced or repaired within the time period specified in § 000-12 (B).

C. No person shall discharge or permit or cause to be discharged untreated sewage, the overflow drainage or contents of a septic tank or receptacle onto the surface of the ground or into any street, road, alley, open excavation, storm water sewer, drainage ditch, adjoining property, watercourse, lake or groundwater.

D. No person shall discharge, or permit or cause to be discharged treated or untreated sewage, the overflow drainage or contents of a septic tank or oilier receptacle into an abandoned water supply well, spring, cistern, sink hole, crevice/opening extending into limestone, sandstone, or other rock or shale formation which may degrade ground water.

E. Due to the accelerated corrosion and decay of metal septic tanks, dosing tanks, pump station tanks and distribution devices, these metal products shall not be installed for use within the District. Existing metal, wooden or ceramic components must be replaced or repaired within the time period specified in § 000-12 (B).

§ 000-7. Standards for wastewater systems for new construction.

A. Wastewater systems for new household construction shall be designed in accordance with New York State Department of I Health Administrative Codes, Rules and Regulations Appendix 75-A. The definitions contained in Appendix 75-A shall also apply to these regulations.

B. Wastewater systems for new commercial or institutional construction shall be designed according to the New York State Department of Environmental Conservation guidelines (Standards for Waste Treatment Works - Institutional and Commercial Sewage Facilities, or current reference).

C. Prior to any conversion or expansion any property owner, person, agent or agent thereof shall obtain Certificate of Compliance from the regulatory officer.

§ 000-8. Standards for replacement wastewater systems.

A. Construction of replacement wastewater systems may be designed and must be installed under the direction of the regulatory officer and/or a design professional. Replacement systems may be designed and installed according to the provisions of Appendix 75-A, if practical.

B. On limiting site conditions, the regulatory officer shall utilize up to date practical technology or require that the system be designed and installed under the direction of a qualified design professional. A holding tank may be installed under the supervision of the regulatory officer as described in § 000-13.

C. Structures served by replacement systems may be required to have DEC certified water conservation fixtures prior to the issuance of a certificate of compliance.

D. If the site is only occasionally inhabited, such as a seasonal camp, and has no water under pressure and produces no wastewater discharge, the regulatory officer may allow a sanitary privy, other non-water-borne systems as described in Appendix 75-A, design a system or request that an engineered system be designed by a design professional when site conditions axe limiting.

E. Wastewater systems for replacement commercial or institutional construction may be designed according to the New York State Department of Environmental Conservation guidelines in Standards for Wastewater Treatment Works - Institutional and Commercial Sewage Facilities, or current reference.

§ 000-9. Wastewater system inspections and surveys.

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A. The regulatory officer shall be allowed to make regular and thorough inspections of all wastewater treatment systems in the District for purposes of inspection, observation and testing of wastewater treatment systems. Whenever it shall appear to the regulatory officer that a wastewater system is inadequate, a written notice of violation shall be given to the property owner specifying the nature of the violation and required corrective action. The owner of the wastewater system has up to thirty (30) days from receipt of the notice of violation to have a site evaluation performed and to obtain a wastewater system construction permit. Upon written request an additional time of up to 90 additional days may be granted to obtain the permit due to climatic conditions. Completion of work detailed in the wastewater system construction permit shall be performed within the time period specified in the permit, according to § 000-12.

B. Following the evaluation of a wastewater system not found to be in compliance with the standards established in this local law due to a minor violation the property owner will be issued a certificate to operate under the terms of a compliance agreement and ordered to remedy per the requirements of section § 000-9.A.

C. Following the evaluation of a wastewater system not found to be in compliance with the standards established in this local law due to a major violation the property owner will not be issued a certificate to operate and must comply per the requirements of section § 000-9.A

D. The regulatory officer shall investigate all complaints under the provisions of this Local Law and document all follow up investigations.

E. It shall be the duty and obligation of the wastewater system owner to supply upon request to the regulatory officer available information regarding wastewater system, type, capacity, location, usage, age, maintenance, etc., in order to determine the system's effectiveness.

F. Any business or property owner or his or her agent shall provide access to all structures on the property to ascertain where plumbing exits each structure and uncover all receptacles, inspection ports and outlet baffles for inspection. The receptacle shall be pumped in the presence of the regulatory officer by a certified contractor so that an inspection can be performed. If the receptacle is over twelve inches below grade, riser installation may be required.

G. Commercial Properties. Commercial properties may be inspected at the time of any fire inspection required under the Town of Wayne Building Law, or New York State Uniform Fire Prevention and Building Code, and iii any case at least once every five years. If a property passes inspection, it shall be issued a Certificate of Compliance.

1. Inspection Criteria.

a. All receptacles must be uncovered, opened and inspected per the requirements of section § 000-11.

b. A dye test may be conducted by running an adequate volume of water to ascertain if all fixtures are connected to the receptacle and to ascertain if effluent is being discharged to the ground surface or surface waters. This process may be repeated for up to three (3) consecutive days.

c. The distribution box shall only be exposed if a problem or suspected problem is found and further evaluation is required.

d. Leach lines and seepage pits shall only be exposed if a problem or suspected problem is found and further evaluation is required.

e. A holding tank shall be maintained and pump-out records shall be presented at time of inspection, which documents holding tank maintenance. The regulatory officer shall witness an annual pump-out to ascertain if the tank is watertight.

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f. At time of inspection, adequate proof shall be produced that aerobic and advanced treatment units have been serviced by a certified maintenance provider.

2. In the event of direct discharge of untreated sewage to the ground surface or surface water, the regulatory officer shall order that the discharge be terminated immediately, and any receptacle outlet shall be sealed and used as a holding tank until the system is brought into compliance. The regulatory officer may also take further enforcement action, as provided in 000-9.(A) of this law, refer the matter to the Town Board of Health, New York State Department of Environmental Conservation, or Health Department as provided in § 000-15 of this law, as well as require temporary corrective actions as deemed necessary by the regulatory officer.

H. Residential and Other Non-Commercial Properties. All systems in Zone A must be inspected at least once every five years. Wastewater systems not in compliance due to undersized receptacles will be required to be pumped more frequently until the system is brought into compliance. For newly installed wastewater systems, the first required inspection shall be no sooner than five years after installation or one year after for holding tanks, unless a property transfer or a complaint requires sooner action. If a property passes the Zone A inspection, it shall be issued a Certificate of Compliance.

I. Inspection Criteria.

a. All receptacles must be uncovered, opened and inspected per the requirements of section § 000-11.

b. A dye test shall be performed using approximately 50 gallons of water per bedroom introduced into the septic system to ascertain if effluent is discharging to the ground surface or surface waters, this process may be repeated for up to three (3) consecutive days.

c. The distribution box shall only be exposed if a problem or suspected problem is found and further evaluation is required.

d. Leach lines and seepage pits shall only be exposed if a problem or suspected problem is found and further evaluation is required.

e. Holding tanks must be maintained and pump-out records presented at time of inspection, which documents tank maintenance. The regulatory officer shall witness an annual pump-out to ascertain if the tank is watertight.

f. At time of inspection, adequate proof shall be produced that aerobic and advanced treatment units have been serviced by a certified maintenance provider.

2. In the event of direct discharge of untreated sewage to the ground surface or surface water, the regulatory officer shall order that the discharge be terminated immediately, and any receptacle outlet shall be sealed and used as a holding tank until the system is brought into compliance. The regulatory officer may also take further enforcement action, as provided in §000-9.A of this law, refer the matter to the Town Board of Health, or New York State Department of Environmental Conservation as provided in § 000-15 of this law, as well as require temporary corrective actions as deemed necessary by the regulatory officer.

§ 000-10. Property transfer and refinancing inspections.

A. Prior to any property transfer all septic or holding tanks must be pumped by a DEC-licensed waste hauler at least 10 days prior to the time of property transfer unless it has already been pumped and inspected by the regulatory officer within the past year. The property owner must give the regulatory office at least 48 hours notice to arrange for inspection of the septic tank(s).

B. All receptacles must be within two hundred and fifty gallons of the minimum volume requirement

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C. Additionally tile filtration and/or absorption area must be evaluated by the regulatory officer at least 10 days prior to the time of property transfer as described in § 000-9 (F.1a).

D. All seepage pits must be uncovered and opened by the property owner or theft agent and inspected by the regulatory officer at least ten days prior to the date of property transfer.

E. The distribution box shall only be exposed if a problem or suspected problem is found and further evaluation is required.

F. If the wastewater system is determined to be in failure, a written notice describing the inadequacy will be issued as per § 000-9.(A), and an approved compliance agreement to correct the situation must be obtained prior to property transfer.

G. For aerobic and advanced treatment systems, the new owner must send a signed copy of an updated service contract to the regulatory officer within 30 days after property transfers.

H. Only a regulatory officer of the Town of Wayne is authorized to conduct a wastewater system evaluation for property transfer or mortgage refinance per the requirements of this local law.

I. Property transfers among or between relatives may be exempt from the aforementioned requirements of this section.

§ 000—11. Septic tank inspection.

A. Minimum septic tank volume requirements are provided in Appendix 75-A.

B. All receptacles require regular inspection to:

1. Ensure baffles are adequate.
2. Check for leaks or cracks.
3. Determine if tank needs pumping.

C. Receptacles shall be inspected at a minimum of every five years by the regulatory officer. Septic tanks, with total depth of sludge and scum exceeding 1/3 of the liquid depth, as demonstrated by the property owner or his or her agent, will be required to be pumped at property owner's expense. Physical measurement will be exempt, provided that the tank is pumped by a DEC certified contractor and is visually inspected and approved by the regulatory officer. If the tank is undersized, more frequent inspection may be required. However, a 750 — 999 gallon tank serving a seasonal use dwelling with less than three bedrooms will be required to be inspected once every five years. Septic tanks between 600 and 749 gallons in volume serving up to a three bedroom dwelling will be required to be pumped every three years until brought up to minimum volume requirement. Tanks less than 600 gallons in volume will be required to be pumped every two years until brought up to minimum volume requirement.

D. Additional tank volume may be required by the regulatory officer to meet system use and capacity standards especially if and when the existing septic tank is greater than 250 gallons beyond minimum volume requirements. For example a less than four bedroom dwelling utilizing a septic tank with less than 750 gallons will be required to be upgraded within two years of initial inspection.

§ 000-12. Compliance for failed wastewater systems.

A. Where a written notice of violation has been issued for a major failure, corrective action must be completed within six months. Upon written request an additional period of up to 30 additional days may be granted due to climatic conditions.

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B. Where a written notice of violation has been issued for a minor failure, corrective actions must be completed within a minimum two years, or earlier as specified in supplementary laws.

C. Where a wastewater system violation is considered by the regulatory officer to be a public health hazard, such as untreated sewage on the ground or entering a watercourse, corrective action may be required sooner, depending on the risk to public health and safety including plugging the receptacle outlet to use it as a holding tank until compliance is gained.

§ 000-13. Holding tanks.

A. Holding tanks are allowed for replacement systems only and must be approved by the regulatory officer.

B. Newly installed holding tanks shall:

1. Be vehicle accessible.
2. Have an access port above grade not to exceed eight inches in diameter.
3. Have a capacity of five days storage based upon design flow of up to 150 gallons/ bedroom/day or a minimum of 2000 gallons.
4. Have an audio and/or visual float alarm.
5. Have anchoring devices for areas where seasonal high water table are evident from soil investigations.

C. All holding tanks shall be inspected by the regulatory officer on an annual basis at the time of pumping. Homeowners shall give the regulatory officer 48 hours notice prior to the inspection date.

D. All existing holding tanks shall be equipped with an acceptable alarm device to alert the property owner that the tank is filled within 12 inches of the inlet pipe.

E. Holding tanks shall be pumped by a New York State licensed septic tank pumping contractor when the tank is a minimum of 12 inches of the inlet pipe.

§ 000-14. Aerobic and Advanced Treatment Units.

A. Only Class 1 NSF STANDARD 40 aerobic tanks are acceptable for new or replacement systems and must be approved by the regulatory officer. For both new and replacement systems, aerobic treatment units are considered a septic tank substitute only, and must be used in conjunction with a properly sited and designed filtration and/or absorption system approved by the regulatory officer. A SPDES permit from NYSDEC is required for any surface discharge.

B. Approved Advanced Treatment Systems are acceptable for new or replacement systems and must be approved by the regulatory officer. For both new and replacement systems, advanced treatment systems are considered a septic tank substitute only, and must be used in conjunction with a properly sited and designed filtration and/or absorption system approved by the regulatory officer. A SPDES permit from NYSDEC is required for any surface discharge.

C. A visual and audio warning device shall be installed in a conspicuous location so that activation of such warning device will alert property occupants of aerobic unit and advanced unit malfunction or failure. All warning devices shall be wired separately from the unit so that disconnecting the aerobic unit from electricity will activate the warning device.

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D. All aerobic and advanced treatment units shall be wired and constructed so that electrical disconnection of the unit will result in closure in the sewer line and eventual system backup.

E. All aerobic and advanced tanks must have a continuous maintenance contract agreement with an authorized service contractor. Each unit shall be inspected at least two times a year by an authorized service contractor. A record of the service contractor visit indicating the date, locations, unit type and size, service contractor name and any repairs must be provided to the Agency annually. All service contracts must be sent to the Watershed Inspector annually to verify that a continuous contract exists for the unit.

§ 000-15. Severability

A. If any portion of this law is held invalid or unenforceable by any court of competent jurisdiction, the remainder hereof shall be severable and shall remain in effect.

§ 000-16. Violations and penalties for offenses.

A. Violations:

1. Inspections. If a property owner or his or her agent refuses to allow access to his or her property to conduct an inspection as required by this law, the regulatory officer shall not enter the property to conduct an inspection without an administrative search warrant, which may be issued by the Town of Wayne Justice Court.

2. Abatement. In case any wastewater system is constructed, reconstructed, altered, covered without permission, or any property is transferred, or a Zone A inspection is not performed within the requirements of this local law and therefore in violation of this law, or any order of the regulatory officer under this law is not complied with, the regulatory officer or the Town Board (acting as the Town Board of Health), in addition to other remedies, may institute any appropriate action to restrain, correct or abate such violation, prevent the use of such wastewater system and the regulatory officer may revoke a Certificate to Operate.

B. A Written Notice of Violation shall be issued to any property owner with a wastewater disposal system found in violation of these rules and regulations, stating the date(s) by which corrective action shall be completed. Any violation beyond that date shall be punishable by a fine not to exceed \$250.00 and/or imprisonment not to exceed 15 days. Each week of violation shall be considered a separate offense. In the event of continued violations, the regulatory officer may apply for an injunction or other relief, including property condemnation from the appropriate court or Town Board. In the event that the town institutes proceedings either in local court or in Supreme Court to enforce the provisions of this statute, the offending parties shall be liable for all attorneys' fees, costs and disbursements incurred by the town in bringing said enforcement proceedings. More severe penalties than listed above may be imposed by a local court for blatant and willful violations such as but not limited to pumping or discharging septic or holding tank wastes directly into surface water.

C. Hearing. The Town Board (acting as the Town Board of Health) may schedule a hearing on an alleged violation, and if the conditions arising from the violation are found to be a threat to public health, safety or welfare of the community, the Board may order the violation corrected. Alternatively, the Board may direct that the Town or its authorized agent to correct such violation. Where the town or its authorized agent corrects a violation of this chapter, the owner of the property shall be liable for all costs of such corrective measures and said costs shall be a lien on the premises. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

This local law shall take effect immediately upon filing with the Secretary of State.

