

LOCAL LAW NO.: 12 OF 2022

**A LOCAL LAW TO AMEND QUEENSBURY TOWN CODE
CHAPTER 137 TO ADD ARTICLE II “NORTH QUEENSBURY
WASTEWATER DISPOSAL DISTRICT NO 1”**

BE IT ENACTED BY THE QUEENSBURY TOWN BOARD AS FOLLOWS:

Section 1. Authority – This Local Law is adopted pursuant to Article 16 of the Town Law and Article 3 of the Public Health Law.

Section 2. Queensbury Town Code is hereby amended by adding Chapter 137, Article II as set forth below:

ARTICLE II: “NORTH QUEENSBURY WASTEWATER DISPOSAL DISTRICT No. 1”

§ 137-7. Purpose and Intent. The North Queensbury Wastewater Disposal District No. 1 (District) was formed by the Queensbury Town Board to protect the waters of Lake George. The District is located entirely within the Dunham’s Bay Area along the east shore of Lake George. Lake George is classified as an “AA-Special” water body and serves as a source of drinking water for residents of all eight Towns within the Lake George Basin. Onsite Wastewater Treatments Systems (OWTS) are the sole method of wastewater disposal within the District. Therefore, continued protection of the waters of Lake George is imperative and poorly maintained or malfunctioning OWTS within the District contribute to the contamination and degradation of groundwater and ultimately the water quality of Lake George. The Queensbury Town Board recognizes that OWTS will eventually degrade, even with proper maintenance and operation and that ongoing vigilance to ensure that such systems are properly operating and are appropriately repaired and replaced when necessary is crucial to protect groundwater and the waters of Lake George. The District was formed pursuant to New York State Town Law §190-e to facilitate the Town’s goals of promoting and requiring the rehabilitation, replacement and proper operation and maintenance of OWTS and the Town has the lawful authority to monitor such systems for this purpose, including providing for regular inspections.

§ 137-8. DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated:

ON SITE WASTEWATER TREATMENT SYSTEM OR OWTS: Multi-stage systems that collect, treat, and disperse wastewater to the soils rather than transported off-site. Conventional septic systems typically consist of a septic tank, distribution box, leach lines and a leach field or treatment field.

ENHANCED TREATMENT UNIT or ETU: A pre-manufactured structure that provides enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area. Such units provide for the biological and physical treatment of wastewater to reduce the amount of biochemical oxygen demand and total suspended solids of wastewater effluent prior to distribution to an absorption area. Such units typically lack one or more component parts typical of conventional OWTS.

§ 137-9. INSPECTIONS

A. To confirm compliance with the provision of this Article II, the Town of Queensbury Building and Codes Enforcement Officer, a designee of such official or other professional approved/selected by the Queensbury Town Board shall have the right to inspect all OWTS within the District once every five (5) years to ensure compliance with the provisions of this Part. The inspection shall include a septic tank pump out by a NYSDEC registered septic hauler and all seepage pits and septic drainfield distribution boxes (D-box) accepting effluent from a septic tank, all septic tank inlet and outlet access covers, all pump stations and holding tank access covers must be uncovered and opened by the property owner or their agent prior to the inspection. If access covers are more than twelve (12) inches below grade, they must be outfitted with extension covers. It is the Owner's obligation to arrange for these required actions and to arrange for the necessary inspections. The OWTS inspection shall utilize the New York On-site Wastewater Treatment Training Network (OTN) materials, including the OTN System Inspection Request Form, Findings Worksheet and Site Report (Inspection Findings), all of which shall be available in the Building and Codes Enforcement Office. The cost of the inspection will be established by Town Board Resolution as set forth in the Town's Fee Schedule

Ordinance and shall be the same amount charged for septic inspections performed by the Towns' Building and Codes Enforcement Official under other provisions of this Code. The cost of inspections shall be borne by the Property Owner and shall be paid prior to the inspection. Inspections shall be performed on or before July 15th of such year.

B. Inspections will not be required within the first five (5) years of installation of entirely new OWTS provided such OWTS were fully lawful when installed and provided further that there are no indicia of system failure, including, but not limited to, the appearance of surface effluent and/or the presence of effluent odors. Lawful OWTS shall include those that are lawful by virtue of the issuance of one or more septic variances by the Town Board. For purposes of this provision, for OWTS to be considered entirely new, their component septic tanks, pump stations and either leach fields or seepage pits must be new and cannot have been part of the previous OWTS.

C. Nothing contained in this provision shall prevent additional inspections within this five (5) year period if there are any indicia of OWTS failure, including, but not limited to, the appearance of surface effluent and/or the presence of effluent odors.

D. The Town Board may, in its discretion, contract with a consultant of its choosing to conduct initial information gathering activities which may include contact and coordination with landowners to identify the location and nature of the OWTS and/or OWTS components and create an inventory of all OWTS infrastructure within the District. Related costs shall be a District expense.

E. Notwithstanding any other provision of this Section 137-9, where an inspection is required pursuant to Article I of this Chapter, such inspection must be undertaken regardless of the fact that the OWTS to be inspected has been installed and in use for less than five (5) years at the time that such inspection is mandated under Article I.

§ 137-10. MINIMUM STANDARDS. The following minimum standards shall apply to each inspection:

(a) All septic tanks and holding tanks must be within 250 gallons of the minimum volume requirement; minimum volume includes bedrooms, rooms used for sleeping, Jacuzzi tubs and garbage grinders; and

(b) All holding tanks shall be equipped with a float switch with a 50% level alarm, a 100% high-level alarm located in a conspicuous place to indicate when pump out is necessary and a water shut off device. A copy of pump out records shall be submitted during or prior to the inspection.

§ 137-11. OWTS FAILURES. Failure of an existing OWTS occurs when the standards for lawful OWTS as set forth in Chapter 136 and this Article are not met. While not exhaustive, examples of a failing system include the following:

(1) Lack of a pre-treatment vessel (i.e., septic tank, aerobic treatment unit, ETU, etc.) prior to effluent discharge to any subsurface treatment (soil treatment area or absorption field);

(2) There is a discharge of effluent directly or indirectly to the ground's surface, with surface breakouts, ponding or saturated soils over the soil treatment area;

(3) Direct pipe surface discharge of grey water (into a dry well, over an embankment, into a roadside ditch or stream/tributary, etc.);

(4) A dye test results in the presence of dye on the ground surface or adjacent/downstream water body;

(5) There is a backup of sewage into the home, building, septic tank or facility as a result of a septic tank overload or malfunction, or a clogged soil treatment area;

(6) The septic tank requires pumping more than four times per year and/or sewage is observed flowing back into the septic tank from the secondary treatment area during pump out;

(7) Presence of a metal septic tank that is undersized and/or corroded;

(8) A cesspool, defined as a covered hole or pit used to receive untreated sewage from a house or building constructed as a primary source of wastewater disposal;

(9) A holding tank that discharges effluent to surrounding subsurface areas;

(10) No septic tank, seepage pit, enhanced treatment unit or soil treatment area (STA) shall be permitted to discharge to any natural outlet or adjoining property.

§ 137-12. MANDATORY PUMP OUT. Each OWTS within the District must be pumped out no less than once every five (5) years. Property owners within the District may individually undertake such effort. In addition, the Town of Queensbury may arrange for one or more septic haulers to undertake annual pump-outs of approximately 1/5 of the properties within the District. The cost of such services, if arranged throughout the District shall be a District expense. Otherwise, each property owner shall be independently responsible for such costs. In the event any new OWTS has been installed within the District, no additional inspection or pump-out shall be required within the five (5) years directly following installation, provided the owner gives the Town sufficient information and documentation to identify the location of the OWTS and all its components, the type of system and the manner of its operation. Notwithstanding the above provision, pump-out of any new OWTS system as described above is nonetheless required where an inspection pursuant to Article I of this Chapter is mandated.

§ 137-13. EXEMPTION. The requirements of Section 137-9 and 137-12 shall not apply where the owner has submitted to the Town, on or before July 15th of the year in which such activity is to occur, an annual maintenance report demonstrating that such pump out or inspection has been performed and that the system is functioning properly.

§ 137-14. PROVISIONS OF THIS CHAPTER ARE TO BE READ IN HARMONY.

It is the intention of the Town Board that Article I (Septic Inspection Upon Property Transfer) and Article II of this Chapter are to be read in harmony wherever possible. However, in the event of a conflict between the two, the stricter provision or procedures shall apply. Where a property transfer within this District occurs and such property is also subject to the provisions of Article I, any inspection required as a result of that transfer of property must be performed in accordance with Article I regardless of the inspection cycle established pursuant to Article II and may result in multiple inspections being performed in the same five (5)-year period.

§ 137-15. EXEMPTION OF ETUs

ETUs that replace a conventional septic tank are exempt from pump-out requirements provided 1) the owner provides the Town with a maintenance agreement spanning the following five (5) years and 2) the owner provides the Town with a written statement of a certified inspector of such ETU certifying that the ETU is functioning properly and as designed.

§137-16. DISTRICT ADMINISTRATION

(A) The Town Board may, in its discretion, arrange for the administration of this District by contract with one or more persons or entities of its choosing; and/or by delegating such authority to one or more Departments and/or one or more employees of the Town. The Town Board may determine the scope of authority to be delegated to any such individuals or entities by Resolution. Administration of this District may include undertaking efforts to investigate the types, location and status of existing septic systems within the District, determining the inspection cycle each property owner is to comply with, notifying property owners of necessary deadlines effecting their systems, making reports to the Town Board, sharing authority with Town Code Enforcement Officials to enforce the provisions of this Chapter and, with the approval of the Town Board, to retain consultant services.

(B) The Town Board may also rely upon the assistance of any ad hoc committee that it may form to assist in activities necessary for proper administration of this District. However, a committee shall not have the authority to enforce any provisions of this Chapter.

(C) All costs associated with administering this District and this Chapter shall be an expense of the District.

§ 137-17. OWNER TO UNDERTAKE REQUIRED REPAIRS

Property Owners are responsible to ensure that their OWTS or ETU is functioning properly and are obligated to cause any necessary repairs to be completed within a timely manner. All repair costs are the expense of the owner or owners. In the event that an inspection reveals that all or a part of any OWTS or ETU does not meet or exceed applicable standards, the Code Enforcement Officer or other Town designated person or entity may direct that the

necessary repairs be made and provide a reasonable amount of time to undertake such remedial action.

§ 137-18. COSTS INCURRED; VIOLATIONS; PENALTIES FOR OFFENSE.

A. Any and all costs incurred by the District due to a District owner's failure to undertake the actions required by this Chapter or as a result of the District addressing any violations thereof may be assessed against the real property and levied and collected in the same manner as the levy and collection of special ad valorem assessments through inclusion on the individual tax bills of the property at issue. Costs assessed in this way shall include all actual expenses incurred by the District on behalf of such owner and any Application Fees that would have been required had the owner complied with the provisions hereof.

B. Appearance tickets/information. The Town Enforcement Officer, or such other person designated by the Town Board or authorized by law, upon receipt of a complaint or upon such person's own initiative, may commence proceedings in Queensbury Town Court by issuing an appearance ticket and/or filing an information or a summons and complaint with the Queensbury Town Court pursuant to New York law.

C. Penalties. Violation of any provision of this Article shall constitute a violation, punishable by an assessment of civil penalties of \$950 or a fine not exceeding \$950, or imprisonment for a term not exceeding 15 days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation.

E. Civil Actions and Penalties. In addition to any other remedies provided by this Article, the Town may commence a Civil Action in a Court of competent jurisdiction to compel compliance with this Article and/or to seek monetary penalties for violation of its provisions.

Section 6. Severability – The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 7. Repealer – All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed.

Section 8. Effective Date – This Local Law shall be effective upon filing by the New York State Department of State.