

TOWN OF WOLCOTT SEWER CONNECTION LAW

Local Law No. 1 of 2015

1. Short title.

This law may be referred to as the "Town of Wolcott Sewer Connection Law."

2. Purpose.

In order to safeguard public health, safety, and welfare, and protect the environment, including the quality of ground and surface water, and the waters of Port Bay and Blind Sodus Bay, it is necessary to regulate and control septic systems in the Town under this law.

3. Other Law and Regulations.

This law is intended to supplement and expand the requirements for septic systems under the State Public Health Law and Regulations, including Part 75A, which is incorporated into this law by reference. To the extent this law conflicts with such regulations and other requirements under state law, the more restrictive law and regulations shall prevail. This Sewer Connection Law is intended to be construed as in harmony with the State Public Health Law and Regulations (including Part 75A), the Town Building Law, the Town Zoning Law, and the Town of Wolcott and/or the Wayne County Water and Sewer Authority Sewer Use Ordinance.

4. Connection to Public Sewer

- A. At such time as a public sewer becomes available to a property served by a septic system, within a Town sewer district, the owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Town sewer district are hereby required at their expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer within 90 days after date of official notice to do so. Such official notice may be given as a result of an order by the Septic Inspector, based on a septic inspection, pursuant to this Local Law.
- B. Notwithstanding the foregoing, connection to the sewer system shall not be required where the private sewage disposal system passes inspection pursuant to Section 6(D)(1) of this Local Law.

- C. Although passing by local standards of the Town of Wolcott, any private sewage disposal system serving a property located within a sewer district which is not in compliance with Part 75A, Title 10 of the New York Code of Rules and Regulations shall be connected to the sewer system at the property owner's expense by no later than June 30, 2022.

5. Definitions

- A. **Building Inspector.** The person who administrates and enforces the New York State Uniform Fire Prevention and Building codes, Town of Wolcott Building Law and Town of Wolcott Zoning Law. Also referred to as Code Enforcement Officer.
- B. **Certificate of Compliance.** A form that certifies full compliance with this local law until the next inspection as provided by this law is required.
- C. **Conditional Certificate of Acceptance.** A form that permits continued use of a septic system until the system is brought into full compliance and a Certificate of Compliance is issued.
- D. **Enhanced Treatment Unit (ETU).** A pre-manufactured wastewater treatment system that provides Enhanced Treatment of wastewater prior to discharge to a subsurface soil absorption area. All ETU's shall have a label indicating compliance with the standards for a Class I unit as described in the National Sanitation Foundation (NSF) International Standard 40 or equivalent testing.
- E. **Gray Water.** Wastewater not mixed with toilet waste, not including water softener discharges.
- F. **Gray Water System.** A septic system for treatment, storage, dispersal, transmittal, or disposal of gray water, other than a discharge to a public sewer system or discharge to surface waters permitted by the New York State Department of Environmental Conservation.
- G. **Holding Tank.** A Water-tight tank that holds septage without an outflow.
- H. **Increase in Living Area.** The addition of enclosed inside living area to an existing residential structure, which increases the load or potential load on the septic system.
- I. **Leachate.** Liquid effluent discharged from a septic tank.
- J. **Part 75A.** Title 10 of the New York Code, Rules and Regulations. Part 75A (10 N.Y.C.R.R. Part 75A), as it may be amended from time to time.

- K. Sewer System.** A municipal wastewater treatment system which provides a collection network and a central wastewater treatment facility.
- L. Septage.** All waste and material removed from a septic tank, raw sewage, and untreated effluent.
- M. Septic Inspection Report.** A report of a septic inspection on a form prescribed by the Town Board.
- N. Septic Inspector.** A person appointed by the Town Board who performs septic inspections as set forth in this law. The Town Board may also designate one or more Deputy Septic Inspectors to assist the Septic Inspector and act in his or her absence. The Building Inspector or his or her deputy may also serve as Septic Inspector.
- O. Septic System.** A system for treatment, storage, dispersal, transmittal, or disposal of sewage or gray water, other than a discharge to a public sewer system or a discharge to surface waters permitted by the New York State Department of Environmental Conservation
- P. Sewage.** All domestic wastewater, including any combination of human waste with water discharged to a plumbing system, waste from a flush toilet, bath, sink, lavatory, dishwasher or laundry machine, and waste carried by water from any other fixture, equipment or machine, but not storm drains, residential floor drains, sump pumps, eaves, or agricultural waste.
- Q. State Public Health Law and Regulations.** The Public Health Law of the State of New York, and regulations promulgated pursuant to that law, including 10 N.Y.C.R.R. Part 75A, as they may be amended from time to time.
- R. Town.** The Town of Wolcott, Wayne County.
- S. Town Board.** The Town Board of the Town of Wolcott, Wayne County.
- T. Transfer of Ownership.** A transfer of real property title from one person to another.
- U. Wastewater.** Any water discharged through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device which is produced in the house or property.

- V. **Wayne County Water and Sewer Authority (WCWSA).** The public benefit corporation responsible for operation and maintenance of the public sewer systems in the Town.

6. **Inspection of Existing Septic Systems.**

A. **Required Inspections.** A septic inspection of all septic systems serving an existing residence, or commercial or industrial facility located within an established and constructed sewer district, as provided by this section, shall be completed by the Septic Inspector at the property owner's expense prior to:

- 1) Change in type of use.
- 2) Within six (6) months of when the sewer system servicing the property becomes available for hook up.

B. **System Compliance.**

- 1) All existing septic systems must be functional, consistent with the existing or proposed use. At a minimum, all existing septic systems must provide for separation of solids and grease, and adequate percolation.
- 2) Whenever a maintenance or service contract is required for all or part of a septic system, the property owners shall provide the Town with a current copy of the contract, and maintain written evidence of continuing contract coverage satisfactory to the Town. Maintenance contracts are required for ETU's, and may be required by the Town for other systems. Maintenance contracts for ETU's shall require, at a minimum, semi-annual inspections and subsequent necessary adjustments by the manufacturer or a certified manufacturer's representative for the life of the system. Maintenance contracts for ETU's shall include the cost of regular pumping, the frequency of which shall be recommended by the manufacturer or its certified representative, based on the semi-annual inspections of the system. In no case shall the time between pump-outs exceed three years, unless specifically recommended otherwise by the manufacturer or its certified representative. Within ten (10) business days of any ETU inspection, the Town shall be provided with a written report documenting the results of the inspection including a written certification from the manufacturer or its certified representative that the system is fully functional and operating properly, or that repairs or system replacement is warranted.

C. Mandatory Connection to Sewer System. The existing septic system shall be discontinued and the property connected to the sewer system whenever one of the following occurs:

- 1) Results of a septic inspection indicate that the existing septic system has failed, or is failing to protect public health and safety of the environment based on one or more of the following criteria:
 - i. A dye test demonstrates that effluent is being discharged to surface or ground waters, and/or that the system does not have a working leach system. However, a dye test will not be an inspection criteria in any area where the Septic Inspector determines that dye testing would be inconclusive due to the hydrogeologic conditions of the area.
 - ii. There is a back-up of sewage into the home, building or facility as a result of an overloaded or clogged leach field.
 - iii. There is a discharge of effluent directly or indirectly to the ground surface and ponding, surface outbreaks and damp soils are frequently or seasonally observed over the leach field.
 - iv. The level of liquid in the distribution box is above the level of the outlet invert.
 - v. The septic tank requires pumping more than four times per year and/or sewage is observed running back into the septic tank from the leach field during pumping.
- 2) Increase in living area.
- 3) Change in use or intensity of a commercial use that increases the number of employees or occupants, or increases the discharge of sewage.
- 4) Transfer of Ownership.
- 5) Results of an inspection of an ETU indicate that replacement of the ETU is necessary.
- 6) Wastewater generated at the property is collected in a holding tank.
- 7) New construction.

D. Periodic Inspection.

Periodic inspections shall be performed by Septic Inspector as set forth in this subdivision.

1) Residential and Commercial Properties. All properties located within a sewer district that are not connected to the sanitary sewer system within six months of when the sanitary sewer system becomes operational shall be inspected. If a property passes inspection, it shall be issued a Certificate of Compliance that expires three years after the initial inspection. However, if a Conditional Certificate of Acceptance is issued rather than a Certificate of Compliance, the Septic Inspector may require an inspection at such time as the Septic Inspector deems appropriate.

(a) **Property Owner.** The property owner or his or her agent shall:

- (i) Provide access to all structures that have plumbing.
- (ii) Uncover all tanks and outlet ports so that a dye test may be performed, and if the tank is over twelve inches below grade, ensure that risers have been installed.

(b) **Inspection Criteria.**

The Septic Inspector may determine that the existing septic system has failed or is failing to protect public health and the environment based on a combination of one or more of the following criteria

- (i) A dye test demonstrates that effluent is being discharged to the surface or ground waters and/or that the system does not have a working leach system. However, a dye test will not be an inspection criteria in any area where the Septic Inspector determines that dye testing would be inconclusive due to the hydrogeologic conditions of the area.
- (ii) There is a back-up of sewage into the house, building or facility as a result of an overloaded or clogged leach field.
- (iii) There is a discharge of effluent directly or indirectly to the ground surface and ponding, surface outbreaks and damp soils are frequently or seasonally observed over the leach field.
- (iv) The level of liquid in the distribution box is above the level of the outlet invert.

- (v) General condition of the septic tank including its age, size and condition, any evidence of effluent back-up or leakage into or out of the tank, or evidence that the septic tank requires pumping more than four (4) times per year and/or sewage is observed running back into the septic tank from the leach field during pumping.
- (vi) The distribution box shall only be exposed if a problem is found and further evaluation is required.
- (vii) Leach lines and seepage pits shall only be exposed if a problem is found and further evaluation is required.
- (viii) At time of inspection, the Septic Inspector shall verify that ETUs have been serviced by the maintenance provider at the frequency, and in accordance with the requirements of subdivision 6(B) of this law.

E. Septic Inspection Report. Within fifteen (15) days of the inspection, the Septic Inspector shall file a completed Septic Inspection Report with the Town which shall document observed conditions and use. The property owner shall be furnished a copy of the Septic Inspection Report and any Certificate of Compliance or Conditional Certificate of Acceptance that is issued.

7. Enforcement Action Upon Complaint.

The Building Inspector is authorized to investigate all written complaints or concerns regarding compliance with this law.

A. Voluntary Cooperation. If the Building Inspector finds a reasonable basis to investigate such complaints or concerns, he or she shall first make efforts to notify the property owner of the complaint or concerns, and then proceed to visually inspect the septic system. The Building Inspector shall attempt to obtain the cooperation of the property owner to validate and resolve any concerns, and may request permission from the property owner to inspect the septic system or property. If permission is denied, except in exigent circumstances, the Building Inspector shall not enter the property to conduct an inspection without an administrative search warrant, which may be issued by the Town of Wolcott Justice Court.

B. Enforcement Action.

- 1) If the Building Inspector determines that a septic system is not functioning properly, or is not in compliance with applicable legal requirements, and he or she determines, based on his or her judgment, that only minor action

or repairs are necessary to allow the septic system to be in compliance with this law and to adequately protect public health and the safety of the environment, he or she is authorized to order: (i) pumping of the tank; or (ii) other repairs or improvements; to the extent reasonably necessary to restore functionality and compliance with legal requirements. The property owner shall be responsible for all actions and costs necessary to support system inspection and repairs. The Building Inspector may also take further enforcement action, or refer the matter to the Town Board of Health, as provided in Section 9 of this Law.

- 2) If the Building Inspector or Septic Inspector determines that the septic system has failed, in accordance with the criteria in this law, he or she is authorized to order mandatory connection to the public sewer per Sections 4(A), 6(C) and any other applicable Section of this Law.

8. Enforcement.

This local law shall be enforced by the building inspector for the Town of Wolcott.

9. Violations

- A. **Inspections.** If a property owner refuses to allow access to his or her property to conduct an inspection as required by this law, the Building Inspector shall not enter the property to conduct an inspection without an administrative search warrant, which may be issued by the Town of Wolcott Justice Court
- B. **Abatement.** In case any septic system is constructed, reconstructed, altered, converted or maintained or used, or any property is transferred, in violation of this law, or any order of the Building Inspector under this law is not complied with, the Building Inspector 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 septic system, or enforce this law or requirements under the State Public Health Law and Regulations, and the Building Inspector may revoke a Certificate of Compliance or Occupancy.
- 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 take corrective action and assess all costs and expenses incurred by the Town in connection with the proceedings and correction of the violation upon the property.

- D. Criminal Penalties.** Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this law or any written order the Building Inspector issues under this law shall be guilty of an offense, and upon conviction of such offense may be subject to a fine of not more than five hundred dollars, or imprisonment for a period of not more than fifteen days, or both such fine and imprisonment for each offense. However, a person, firm or corporation convicted of a second or other repeated violation of this law, with at least one previous violation occurring within the period of five (5) years immediately preceding the latest violation, may be guilty of a misdemeanor, and may be subject to a fine of not more than one thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment for each offense. The Building Inspector is authorized to issue appearance tickets for violation of this law requiring appearance by the alleged violator in Wolcott Town Justice Court.
- E. Civil Penalties.** Any person, firm or corporation who violates, disobeys, neglects, refuses to comply with or resists the enforcement of any provision of this law or any written order the Building Inspector issues under this law shall be deemed to have violated this local law, and may be liable to pay the Town a civil penalty of up to one thousand dollars for each such violation. Such a civil penalty may be assessed in any action or proceeding brought by the Septic Inspector or the Town Board to enforce the provisions of this law.
- F. Continuous Violations.** Each day a violation or offense is continued or not corrected shall be deemed a separate violation or offense.

10. Recourse.

Any person or persons, jointly or severally aggrieved by any decision or action of the Town Board or any officer, department, board or bureau of the Town arising under this law, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such a proceeding must be instituted within 30 days after the filing of a decision of the Town Board in the office of the Town Clerk, and against any other officer, department, board or bureau of the Town within 30 days of the decision or action.

11. Savings Clause.

If any part of this law is held unconstitutional, invalid or ineffective, the remainder of this law shall be valid.