

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE

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STATE OF NEW YORK
DEPARTMENT OF STATE
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VILLAGE OF PENN YAN

LOCAL LAW 4 OF THE YEAR 2012

A LOCAL LAW AMENDING THE “WASTEWATER” CHAPTER OF THE CODE OF THE VILLAGE OF PENN YAN, NEW YORK.

Be it enacted by the Board of Trustees of the Village of Penn Yan as follows:

Section 1: Short Title.

This Local Law shall hereafter be known as “The 2012 Amendment to the “Wastewater Management” Chapter of the Code of the Village of Penn Yan”.

Section 2: Legislative Intent.

The purpose of this Local Law is to amend the “Wastewater Management” Chapter of the Code of the Village of Penn Yan, New York, which regulates the discharge of wastewater in the Village of Penn Yan.

Section 3: Legislative Authority.

This Local Law is enacted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

Section 4: Provisions.

§194-1. PURPOSE

The purpose of these regulations is to preserve and protect the quality of Keuka Lake as well as surface and groundwater in the Village of Penn Yan. These standards are established to ensure adequate performance of wastewater treatment systems, to protect public health and to optimize the effectiveness of the systems at removing nutrients from wastewater.

§194-2. APPLICABILITY

These regulations shall be applicable throughout the Village of Penn Yan and apply to all wastewater systems not subject to continuous licensing or regulations by the New York State Departments of Environmental Conservation hereafter referred to as NYSDEC or New York State Department of Health hereafter referred to as NYSDOH.

§194-3. VALIDITY

In the event that any section, paragraph, subdivision or provision of this Chapter shall be determined to be invalid or unconstitutional, by any Court of competent jurisdiction such determination shall not affect the validity of this Chapter as a whole or any part or provision thereof other than the part determined to be invalid or unconstitutional.

§194-4. DEFINITIONS

All definitions (printed) contained in Appendix 75-A to the NYSDOH Code of Rules and Regulations shall be applicable to this Chapter. Additional definitions include:

"Agent" - A person or entity requested, employed or contracted by an owner or owners, occupant or lessee.

"Approved OTN Registered Onsite Wastewater Treatment System Inspector" - Any inspector that has fulfilled the requirements of the New York Onsite Wastewater Treatment Training Network, Inc. (OTN) for inspection of wastewater systems and is registered and has been approved by the KWIC and the municipality where the inspection is to be performed.

"Board of Trustees" – The Board of Trustees of the Village of Penn Yan.

"Distances" - The shortest horizontal linear measurement from the nearest point or structure or object to the high water mark of the nearest watercourse or the edge, margin or top of precipitous bank forming the mean high water mark of a watercourse.

"KWIC" – Keuka Watershed Improvement Co-operative.

"New Construction" - Any building constructed or placed on an undeveloped site and requiring a new wastewater system and currently not utilizing a adequately functioning wastewater system.

"NSF" - The National Sanitation Foundation founded in 1944 and is accredited by the American National Standards Institute (ANSI) and by the Standards Council of Canada (SCC) in Canada.

"Regulatory Officer" - The Watershed Inspector and/or the KWIC's Watershed Manager with duties as described in the KWIC Policy and Procedures Manual.

"Replacement Wastewater System" - Any construction or modification of a system for an existing building which already has a system. Complete replacement of a system for an existing property with a system, shall be considered a replacement wastewater system.

"Wastewater" - Any fluid containing sewage or other contaminated liquids of any kind in or from the drainage system or sewer of a domestic dwelling or any other structure utilized for commercial, recreational, agricultural, institutional, or industrial purposes.

"Watercourse" - Any stream, creek or other water way so designated by the KWIC after consultation with the Yates and Steuben County Soil and Water Conservation Districts and the Department of Environmental Conservation and published on a set of maps.

“Village” – The Village of Penn Yan.

§194-5. DISPOSAL OF WASTEWATER

Wastewater from any new construction shall be discharged directly into public wastewater disposal systems if available and accessible within 100 feet of the property line. In the event that there is no public wastewater disposal system available, within 100 feet of the subject property line, residential, commercial or institutional wastewater must be treated by a wastewater treatment system approved by a regulatory officer.

§194-6. WATER QUALITY PROTECTION ZONES

There shall be two (2) zones within the Village for the protection of water, public health and safety. Zone 1, or the "Critical Water Protection Zone", shall include any lot with an onsite wastewater system located within 200 feet of a lake or watercourse. Zone 2 shall include all other lands in the Village.

§194-7. RULES AND REGULATIONS FOR DISPOSAL OF HUMAN EXCRETA

- A. No untreated wastewater shall be deposited or allowed to escape into any watercourse in the Village, or allowed to surface or be washed over the ground.
- B. No human excreta, either raw or partially decomposed, may be deposited, pumped or shoveled from a septic, aerobic or holding tank and placed in or on the ground within the Village without specific approval of the site by the NYSDEC
- C. In the event that a septic tank or holding tank exhibits evidence of leaking, it shall be replaced or repaired within the time period specified in §194-14 hereof.

§194-8. STANDARDS FOR DESIGN OF WASTEWATER SYSTEMS FOR NEW CONSTRUCTION

- A. Wastewater systems for new household construction shall be designed in accordance with current Appendix 75-A to NYSDOH Administrative Codes, Rules and Regulations hereinafter referred to as 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 in accordance with the current NYSDEC guidelines for: "Standards for Waste Treatment Works-- Institutional and Commercial Sewage Facilities" or current reference.

§194-9. STANDARDS FOR DESIGN OF REPLACEMENT WASTEWATER SYSTEMS

- A. Construction of replacement wastewater systems shall be pursuant to a design or plan by a New York State hereafter referred to NYS licensed design professional and must be installed under the direction of a regulatory officer or a NYS licensed design professional. Replacement systems shall conform with the provisions of Appendix 75-A.
- B. On limiting site conditions, the regulatory officer shall utilize up-to-date practical technology and require the system be designed and installed under the direction of a NYS licensed design

professional. A holding tank may be constructed under the supervision of the regulatory officer as described in §194-16 hereof.

C. Any household served by a replacement wastewater system may be required to install NYSDEC certified water conservation fixtures prior to the issuance of a "Permit to Operate".

D. Wastewater systems for replacement of commercial or institutional construction shall be designed pursuant to the NYSDEC guidelines in "Standards for Waste Treatment Works-- Institutional and Commercial Sewage Facilities" or any revised or replacement thereof.

§194-10. WASTEWATER SYSTEM INSPECTIONS AND SURVEYS

A. The regulatory officer shall be allowed to make regular and thorough inspections and/or testing of wastewater treatment systems in the Village for purposes of determining proper functioning and compliance with regulations. 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 shall comply with said notice within 30 days from receipt of the Notice of Violation. The property owner shall obtain a Wastewater System Construction Permit and complete the of work outlined in the Wastewater System Construction Permit within the time period specified in the Permit, pursuant to §194-14 hereof.

B. Wastewater Systems located in Zone 1 shall be scheduled for inspection a least once every five 5 years. For newly installed wastewater systems, the first required inspection shall be no sooner than five (5) years after installation or one year after for holding tank, unless a property transfer or a complaint requires sooner action.

C. The regulatory officer shall investigate all complaints under the provisions of this law and document all follow-up investigations.

D. 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 or other pertinent information, in order to determine the system's effectiveness.

§194-11. PROPERTY TRANSFER AND REFINANCING INSPECTIONS

A. In conjunction with any real property transfer, the septic, wastewater treatment unit or holding tank located on the subject property must be pumped by a NYSDEC-licensed waste hauler at least ten (10) days prior to the time of property transfer, unless it has already been pumped and subsequently inspected by the regulatory officer within the past one year. The property owner shall provide the regulatory officer at least 48 hours notice to arrange for inspection of the tank. It is highly recommended that property transfer inspections and pumping be arranged by the property owner as early in the selling process as possible to obtain an accurate assessment of the system.

B. The filtration and/or absorption area must be evaluated by the regulatory officer at least 10 days prior to the time of property transfer.

C. In the event that a lending institution requires a property owner to obtain a wastewater system inspection for property refinancing in the watershed, a regulatory officer or approved New York Onsite Wastewater Treatment Training Network hereafter referred to as (OTN) registered onsite wastewater treatment system inspector shall perform the inspection pursuant to the applicable provisions in this Section.

D. In the event that the wastewater system is determined to be failing or inadequate, a written Notice of Violation shall be issued pursuant to §194-18, hereof and an approved Construction Permit to correct the violation must be obtained prior to property transfer.

E. Aerobic systems or other enhanced treatment system, the new owner must send a signed copy of a service contract to the regulatory officer within 30 days after property transfer.

F. Only a regulatory officer of KWIC or an OTN Registered Onsite Wastewater Treatment System Inspector approved by the Village and the KWIC are authorized to conduct a property transfer or mortgage refinance inspection as defined by this local law. An OTN Registered Onsite Wastewater Treatment System Inspector shall file the OTN approved inspection forms with the municipality and the KWIC. The OTN inspector shall follow the OTN protocols and policy and procedures of the KWIC.

G. Upon transfer of real property by property serviced holding tanks, the new owner must send a signed copy of a pumping or service contract to the regulatory officer within 30 days after property transfer. The contract shall provide of the pumping or service contract shall notify KWIC of any termination of the contract within 14 days of such termination.

H. Sewer connected systems shall be inspected for proper plumbing to the sewer line.

I. PROPERTY TRANSFER INSPECTIONS ARE NOT REQUIRED FOR THE FOLLOWING TYPES OF TRANSFERS:

- (1) Transfers of vacant land, not improved or utilized for human occupancy or dwelling.
- (2) Transfers in foreclosure actions and deeds given in lieu of foreclosure, (but) however a permit to operate an onsite wastewater treatment system is required prior to any human occupancy of the property.

§194-12.REGULAR SEPTIC TANK INSPECTION

A. All septic tanks require regular inspection to: 1) ensure baffles are adequate; 2) check for holes or cracks; and 3) determine if tank needs pumping. Maintenance of the septic tank will help to protect the filtration/absorption area from clogging. Septic tanks, pump stations and enhanced treatment units shall be inspected every three to five years in Zone 1 by the regulatory officer. Septic tanks, with total depth of sludge and scum exceeding one-third of the liquid depth, as demonstrated by the property owner or his agent, will be required to be pumped at property owner expense. Physical measurement will be exempt provided the tank is pumped and visually inspected by a NYSDEC certified contractor and is approved by the regulatory officer. If the tank is undersized, more frequent inspections may be required. Additional tank volume may be required by the regulatory officer to meet system use and capacity standards.

B After septic tank pumping, the NYSDEC certified contractor is required to send a Septic Tank Pumping Inspection Form to the KWIC verifying the septic tank was pumped and describing other maintenance work completed.

§194-13. WASTEWATER SYSTEM CONSTRUCTION PERMIT

A. No construction of new or replacement wastewater systems shall be commenced until an application for a "Wastewater System Construction Permit" is reviewed and a permit is issued by the regulatory officer.

B. No person shall build, erect, construct, expand, enlarge, add bedrooms, or convert to another use any structure or system that is subject to the provisions of this law and involves wastewater discharge without first obtaining a Wastewater System Construction Permit. Building expansions, which do not alter property wastewater discharge, such as the building of a deck or garage, are exempt.

C. Construction of a system shall be in accordance with the specifications approved in the Wastewater System Construction Permit.

D. No element of the system shall be covered until inspected and approved in accordance with the Wastewater System Construction Permit. Covered work shall be uncovered to permit inspection whenever considered necessary by the regulatory officer.

E. The regulatory officer shall be notified a minimum of two (2) business days prior to the requested inspection date.

F. Final inspection and certification of new or replacement systems shall be performed by the design professional and witnessed by the regulatory officer.

G. A Wastewater System Construction Permit shall be valid for up to one year from date of issuance.

§194-14. COMPLIANCE FOR REPLACEMENT WASTEWATER SYSTEMS

A. Where a written Notice of Violation has been issued for an inadequate wastewater system or component thereof, corrective action according to an approved Wastewater System Construction Permit must be completed within six (6) months.

B. Where a wastewater system violation is considered by the regulatory officer to be a public health hazard, such as raw sewage on the ground or entering a watercourse, a maximum of sixty (60) days will be allowed for corrective action. Corrective action shall be required sooner, depending on the risk to public health and safety, in the sole discretion of the regulatory officer.

§194-15. PERMIT TO OPERATE

No wastewater system shall be placed in operation, or any new building, structure or mobile home occupied, until a "Permit to Operate" has been issued by the regulatory officer, indicating that such system has been constructed and is operating in compliance with the Wastewater System Construction Permit.

§194-16. HOLDING TANKS

A. Holding tanks for residential systems 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 8" in diameter; 3) have a capacity of five (5) days storage based upon design flow of 110 gallons/bedroom/day; 4) have an audio and visual float alarm as specified in the owner's onsite wastewater treatment system construction permit; and 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" of the inlet pipe and documentation shall be sent to the KWIC annually by the contractor.

F. For holding tanks, the new owner must send a signed copy of a pumping or service contract to the regulatory officer within 30 days after property transfer. The provider of the pumping or service contract shall notify KWIC of any termination of the contract within 14 days of such termination.

§194-17. ENHANCED TREATMENT UNITS

A. Only National Sanitation Foundation referred to as (NSF) standard 40 Class I aerobic tanks are acceptable for new systems or as approved in Appendix 75-A of Rules and Regulations of the State of New York Title 10, Department of Health, Chapter II, Part 75, Standards For Individual Water Supply and Individual Sewage Treatment Systems and must be approved by the regulatory officer. For both new and replacement systems, aerobic tanks are considered a septic tank substitute and must be used in conjunction with a properly sited and designed filtration and/or absorption area approved by the regulatory officer. A permit from the NYSDEC and a State Pollution Discharge Elimination System (SPDES) permit are required for surface discharge.

B. 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 malfunction or failure. All warning devices shall be wired separately from the aerobic unit so that disconnecting the aerobic unit from electricity will activate the warning device.

C. All enhanced treatment units shall be wired and constructed so that electrical disconnection of the aerobic tank will result in closure in the sewer line and eventual system back up.

D. All aerobic tanks must have a continuous maintenance contract agreement with an authorized service contractor of the manufacturer and/or KWIC approved service contractor. Each aerobic unit shall be inspected at least two times a year by an authorized service contractor. All service contracts must be sent to the Watershed Department annually to verify that a continuous contract exists for the aerobic tank. The service contractor shall have aerobic unit effluent tested by a certified laboratory and/or supply to the KWIC with an annual maintenance report containing information as specified by the regulatory officer to determine that the unit conforms with manufacturer's treatment specifications.

E. It is recognized that state of the art technology may develop treatment units other than the standard aerobic treatment units (NSF standard 40 Class I). These units may include but are not limited to units such as media treatment units or inoculators. This state of the art technology also needs standards and because of the unique nature of state of the art technology, each system needs to be approved by the regulatory officer. The regulatory officer shall approve the installation and any maintenance requirements based upon the manufacturer's recommendations for replacement systems.

§194-18. PENALTIES

Written Notice of Violation shall be issued to any property owner with a wastewater disposal system determined to be in violation hereof or applicable rules and or regulations, stating the date by which corrective action shall be completed. Any violation existing beyond that date shall be an offense punishable by a fine not to exceed \$250 and/or imprisonment not to exceed 15 days per violation. 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 a Court of competent jurisdiction.

§194-19. FEES

The fee for inspections and permits shall be set by Resolution by the Board of Trustees based upon the recommendation of KWIC.

Section 5: Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Board of Trustees of the Village of

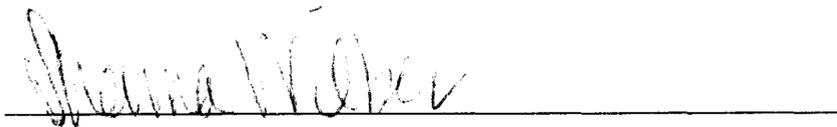
Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 _of the year 2012, was duly passed by the Board of Trustees of the Village of Penn Yan on September 18, 2012 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Shawna Wilber, Clerk, Treasurer

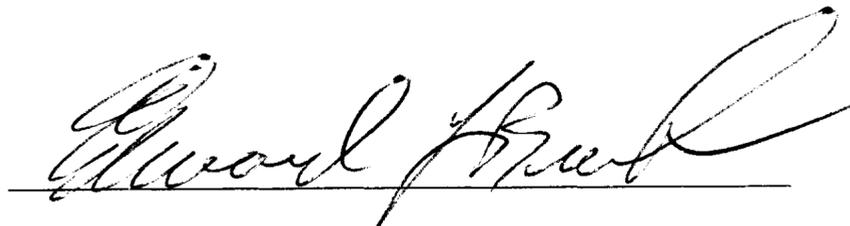
(SEAL)

Date: September 26, 2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: September 25, 2012