

Local Law Filing

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County

City

Town of Tyrone

Village

Local Law No. 1 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 Tyrone 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 tanks.
- § 000-15. Violations and penalties for offenses.

April 11, 2006

§ 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 Tyrone. 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 Tyrone Wastewater Management Law shall be supplemental to the Schuyler County Watershed Protection Laws, 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 other laws pertaining to public health. The provisions of these rules shall be in effect for only property in the Town of Tyrone which lies within the Lamoka-Waneta Lakes' Protection and Rehabilitation District (hereinafter referred to as "District" otherwise known as Zone I).

§ 000-3. 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 AGENTS 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).

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 I, Zone II or Zone III 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. DISTANCES - The shortest horizontal linear distance from the nearest point, structure or object to the mean 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.

H. ELEMENT – Shall mean any part or parts thereof comprising a wastewater treatment system.

I. 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.

J. DWELLING OR MULTIPLE 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.

K. HOLDING TANKS – Shall mean a water tight receptacle to be utilized to correct an existing failed wastewater system when no other practical alternative exists.

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

M 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.

N. 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.

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

P. 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.

Q. 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.

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

S. REGULATORY OFFICER – Shall mean the authorized representative of the Schuyler County Watershed Protection Agency 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.

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

U. REPLACEMENT WASTEWATER 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.

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

W. WATERCOURSES - Identified in consultation with the Schuyler 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.

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

Y WATERSHED PROTECTION AGENCY – Shall mean the agency established by the Schuyler County Legislature to administer and enforce the Watershed Protection Law.

Z. WATERSHED PROTECTION LAW – Shall mean and comprise the rules and regulations now or hereafter formulated, promulgated and adopted by the Schuyler County Legislature and properly filed with the appropriate State Agencies.

§ 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 I 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 I, or the "critical water protection zone", shall include only the properties in the Town of Tyrone which lies within the District.

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

C. All other lands shall be Zone III.

§ 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 site by the Department of Environmental Conservation of the State of New York.

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 other 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 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 are 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.

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 Tyrone Building Law, or New York State Uniform Fire Prevention and Building Code, and in 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.

f. At time of inspection, adequate proof shall be produced that aerobic 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.

H. Residential and Other Non-Commercial Properties. All systems in Zone 1 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 I 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 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 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.

§ 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

C. Additionally the 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.1.a.).

D. All seepage pits must be uncovered and opened by the property owner or their 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 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 Schuyler County Watershed Protection Agency 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 $\frac{1}{3}$ 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.

B. Where a written notice of violation has been issued for a minor failure, corrective actions must be completed within two years.

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 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 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. 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 aerobic tanks shall be wired and constructed so that electrical disconnection of the aerobic tank will result in closure in the sewer line and eventual system backup.

D. All aerobic tanks must have a continuous maintenance contract agreement with an authorized service contractor. Each aerobic 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 Protection Agency annually to verify that a continuous contract exists for the aerobic treatment unit.

§ 000-15. 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 Tyrone Justice Court.

2. Abatement. In case any wastewater system is constructed, reconstructed, altered, covered without permission, or any property is transferred, or a Zone I 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 of 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.