

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

(Select one.)

of Canandaigua

Local Law No. _____ of the year 20¹⁷

A local law Amending Chapter 202, On-site Individual Wastewater Treatment System, in its entirety

(Insert Title)

DRAFT

Be it enacted by the Town Board of the _____
(Name of Legislative Body)

County City Town Village

(Select one.)

of Canandaigua as follows:

(see attached)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION ONE.

SECTION TWO. Town of Canandaigua Town Code Chapter 202 shall be replaced in its entirety with the following:

ARTICLE ONE – INTRODUCTORY PROVISIONS

§ 202-1. Title. This Chapter shall be known as the “On-Site Individual Wastewater Treatment System Law of the Town of Canandaigua.”

§ 202-2. Applicability. This Chapter shall govern the treatment of sewage by regulating all on-site individual wastewater treatment systems (hereinafter referred to as an on-site wastewater treatment system) within the Town of Canandaigua.

§ 202-3. Purpose. The purpose of this Chapter is to preserve and protect public health and the quality of surface and groundwater in the Town of Canandaigua by mandating the adequate performance of on-site wastewater treatment systems to prevent health hazards and adverse impacts to the environment. Specifically, this Chapter will ensure wastes disposed of by on-site wastewater treatment systems:

- A. Do not pollute or contaminate any surface water or groundwater source utilized for domestic drinking water supply or recreational purposes;
- B. Are not accessible to any carriers of disease;
- C. Do not give rise to a nuisance due to odor or unsightly appearance;
- D. Are not a source of nutrient pollution and do not contribute to excessive aquatic weed growth or harmful algal blooms in streams, lakes, or other bodies of water.

§ 202-4. Authority. Enactment of this Chapter is pursuant to Article 2 of New York State Municipal Home Rule Law and Article 3 of New York State Public Health Law.

ARTICLE TWO – GENERAL REGULATIONS, DESIGN STANDARDS, AND REQUIREMENTS

§ 202-5. General Regulations.

- A. It shall be unlawful to install, construct, alter, replace, enlarge, extend, or otherwise modify any on-site wastewater treatment system unless an on-site wastewater treatment system permit is issued by the authority having jurisdiction, except as specifically exempted in § 202-7 of this Chapter.
- B. It shall be unlawful to change the use of real property or any building thereon, convey real property, expand a building or dwelling by increasing the number of

bedrooms and/or bedroom equivalents, or increase the building or dwelling square footage by greater than twenty-five (25) percent of the square footage, or alter a building or dwelling such that the work area exceeds 50 percent of the aggregate area of the existing building without an inspection of the existing on-site wastewater treatment system by a Certified Inspector, pursuant to Article 3 of this Chapter.

- C. It shall be a violation of this Chapter to use any on-site wastewater treatment system that is in failure.
- D. On-site wastewater treatment systems with the absorption area located within 200 feet of Canandaigua Lake shall also comply with § 202-8 Requirements of Substandard Systems.
- E. There shall be no activities or conditions permitted which would interfere with the proper operation of on-site wastewater treatment systems. It is specifically prohibited to construct or place anything that would impact the absorption area including but not limited to: buildings, structures, paving, trees or shrubs, fill, the parking or crossing by vehicles, swimming pools, driveways or parking areas.
- F. It shall be unlawful to discharge anything but sewage into an on-site wastewater treatment system. Surface and subsurface water including roof, cellar, foundation and storm drainage shall not be discharged into the on-site wastewater treatment system and shall be disposed of so as to in no way affect the proper functioning of the system.
- G. All new on-site wastewater treatment systems or modifications to existing on-site wastewater treatment systems shall be designed by a Design Professional. The Design Professional shall have the right to contract with the Ontario County Soil and Water Conservation District through its Uniform Inspection Procedures Program for site and soil appraisals.

§ 202-6. Design Standards to Meet the Requirements of this Chapter.

- A. New York State Department of Health's Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10NYCRR) for systems with a design load of less than 1000 gallons per day.
- B. New York State Department of Environmental Conservation's New York State Design Standards for Intermediate Sized Wastewater Treatment Systems for systems with a design load equal to or greater than 1000 gallons per day.
- C. In addition to the New York State design standards, the following standards shall also be met for all dwellings:

- (1) The minimum design of the system shall be based on 130 gallons/day/bedroom and/or bedroom equivalent for all on-site wastewater treatment systems greater than 200 feet from Canandaigua Lake.
- (2) The minimum design of the system shall be based on 150 gallons/day/bedroom and/or bedroom equivalent for all on-site wastewater treatment systems located wholly or partially within 200 feet of Canandaigua Lake.
- (3) The size of the house shall be considered along with the number of bedrooms and/or bedroom equivalent for design loaded purposes, as follows:
 - (a) Minimum design: 2 bedrooms.
 - (b) 2 bedrooms and/or bedroom equivalents or up to 1200 square feet of heated living space shall be designed as a 2 bedroom design load.
 - (c) 3 bedrooms and/or bedroom equivalents or 1201-2250 square feet of heated living space shall be designed as a 3 bedroom design load.
 - (d) 4 bedrooms and/or bedroom equivalents or 2251-3300 square feet of heated living space shall be designed as a 4 bedroom design load.
 - (e) 5 bedrooms and/or bedroom equivalents or 3301-4050 square feet of heated living space shall be designed as a 5 bedroom design load.
 - (f) More than 5 bedrooms and/or bedroom equivalents or greater than 4050 square feet of heated living space – 110 gallons per day per additional bedroom and/or bedroom equivalent shall be added to the design load.
 - (g) Final determination of design loading shall be by the authority having jurisdiction.

§ 202-7. Exemptions.

- A.** Minor alterations to on-site wastewater treatment systems shall not require an on-site wastewater treatment system permit provided such repairs are made to replace existing conditions in need of repair, and are done in a safe and sanitary manner.
- B.** Replacement of septic tanks and distribution boxes shall require an on-site wastewater treatment system permit but do not need to be designed by a Design Professional provided such repairs are made to replace existing conditions. All alterations to the absorption field shall require an on-site wastewater treatment system permit and a design completed by a Design Professional.

§ 202-8. Requirements for Substandard Systems.

- A.** Substandard systems with the absorption area located within 200 feet of Canandaigua Lake.
- (1) Substandard systems with the absorption area located within 200 feet of Canandaigua Lake shall be brought into compliance with the design standards of § 202-6 of this Chapter within 12 months of the conveyance of real property and shall follow the procedures set forth in Article Four of this Chapter.
- B.** Substandard Systems with the absorption area located within 200 feet of Canandaigua Lake with lot limitations: On parcels with existing substandard on-site wastewater treatment systems that have topographic, physiographic, lot size or other limitations that do not allow for meeting the design standards of § 202-6, the authority having jurisdiction shall require the parcel owner to meet the design standards of § 202-6 to the greatest extent possible.
- (1) The parcel owner shall follow the procedures in Article Four of this Chapter to bring their on-site wastewater treatment system into compliance to the greatest extent possible. The authority having jurisdiction shall have the ability to grant a local waiver to the requirements of the law on substandard lots if the applicant can prove that they have met the requirements to the greatest extent possible. The authority having jurisdiction shall take the following into consideration when determining if the on-site wastewater treatment system meets the design standards of § 202-6 to the greatest extent possible:
- (a) Previous approvals and/or specific waivers granted by NYS-DOH, or the watershed Inspectors;
 - (b) Distance separations to surface water and groundwater wells in order to minimize pathogen, nutrient, and/or other pollutant loading;
 - (c) The ability to utilize the latest technology and the ability to maintain that technology;
 - (d) Existing lot line setbacks and area requirements as related to individual properties; and
 - (e) The extent to which the limitations are self-created.
- (2) On previously developed sites with a substandard system, holding tanks may be utilized if the authority having jurisdiction deems it is the best available technology for the existing site conditions and limitations.

(3) Once the authority having jurisdiction has determined that the substandard system meets the design standards of § 202-6 to the greatest extent possible, the authority having jurisdiction shall provide the parcel owner with an on-site wastewater treatment system permit and a letter of acknowledgement stating that the parcel owner is meeting the design standards of § 202-6 to the greatest extent possible.

C. Substandard systems with absorption areas greater than 200 feet from Canandaigua Lake.

(1) Based on the system inspection, the authority having jurisdiction shall notify parcel owners in a written letter that their system is substandard. The letter will list all components of the system that are substandard. The property owner will NOT be required to upgrade the system unless it is in failure.

§ 202-9. Maintenance of Enhanced Treatment Units and Holding Tanks.

A. All Enhanced Treatment Units (ETUs) are required to have a service contract with a certified manufacturer's representative, which provides for annual inspections or inspections at intervals specified by the manufacturer, whichever is stricter, as well as subsequent necessary adjustments by a certified manufacturer's representative for the life of the unit. Within 10 days of an inspection, a written report, which documents the results of the inspection and provides a written certification from the certified manufacturer's representative that the unit is fully functional and operating properly and is under a service contract, shall be sent to the authority having jurisdiction. Failure to hold a service contract, complete the required inspections, send the required inspection reports to the authority having jurisdiction, and/or complete the certified manufacturer's representative's maintenance schedule is a violation of this Chapter and shall be punishable according to Article 8 of this Chapter.

B. Holding Tanks. All holding tanks shall be equipped with a float switch and high level alarm (audible and visual) located in a conspicuous place to indicate when pump out is necessary, which will be maintained in good working order at all times. The owner shall have a contract for service with a NYSDEC permitted septage waste transporter to pump the holding tank as needed. A copy of all pump-out records shall be submitted to the authority having jurisdiction. At no time will sewage discharge from the tank be allowed.

ARTICLE FOUR – REQUIREMENTS FOR NEW AND EXISTING ON-SITE WASTEWATER TREATMENT SYSTEM INSPECTIONS

§ 202-10. Inspections of New On-Site Wastewater Treatment Systems

- A. Installation of the on-site wastewater treatment system shall be under the direct supervision of a Design Professional. The authority having jurisdiction shall have the right to observe any portion of the installation of the system.
- B. The applicant shall be prohibited from covering any component of the system without proper authorization from the authority having jurisdiction. Any change of construction approved by the authority having jurisdiction shall be noted on the original drawings before the system is back filled. An additional review and approval shall not be required for any minor alterations to the designs already approved by the authority having jurisdiction. Major alterations to the designs approved by the authority having jurisdiction shall require review and approval by the authority having jurisdiction. Major alterations shall include any changes to the absorption field and/or changes to the size or type of pretreatment tank.
- C. As built plans and construction certification by a Design Professional shall be provide to the authority having jurisdiction after installation is completed.

§ 202-11. Inspections of Systems With the Absorption Area or Holding Tank Located Within 200 Feet of Canandaigua Lake.

- A. All on-site wastewater treatment systems with an absorption area located wholly or partially within 200 feet of Canandaigua Lake or a holding tank located wholly or partially within 200 feet of Canandaigua Lake shall be required to have an on-site wastewater treatment system inspection completed by a Certified Inspector every five years after the adoption of this law.
- B. If a parcel is located within 200 feet of Canandaigua Lake and the authority having jurisdiction does not have a stamped as-built drawing showing the location of the absorption area or holding tank, then an on-site wastewater treatment system inspection shall be required during the first 5-year inspection cycle. The first inspection shall be completed by the Watershed Inspector. Parcel owners will be exempt from future five year inspection cycles if the absorption area and holding tank has been determined to be greater than 200 feet from Canandaigua Lake. The authority having jurisdiction will provide written documentation to the parcel owner that the absorption area and holding tank is located greater than 200 feet from Canandaigua Lake.
- C. The Watershed Inspector shall complete the first inspection for systems requiring inspections pursuant to § 202-11(B) of this Chapter that have not been inspected by the authority having jurisdiction since 1990 or do not have a stamped as-built drawing dated on/after 1990. The inspection or stamped as-built drawing must have documented the length, type, and location of absorption areas; the size, type, location and structural integrity of the pretreatment tank; and the tie dimensions. Parcel owners shall receive written notification by the Watershed Inspector regarding this requirement and shall work with the Watershed Inspector to complete the inspection.

square footage by greater than 25%, or alter a building or dwelling such that the work area exceeds 50% of the aggregate area of the existing building.

- (4) Prior to any alterations made to the absorption field or any change in the treatment system type.

§ 202-13. Inspection Procedure

- A. All existing on-site wastewater treatment systems requiring an inspection pursuant to this Chapter shall be performed by a Certified Inspector in accordance with and utilizing the OTN System Inspection Findings Worksheet (Rev 01/13 or as updated).
- B. The authority having jurisdiction reserves the right to observe any on-site wastewater treatment system inspection completed by a Certified Inspector following the procedures identified in Article 6.
- C. The authority having jurisdiction shall have 30 days to review the inspection report and notify the parcel owner of their findings. If the authority having jurisdiction deems the inspection or the associated report to be inadequate or incomplete, the authority having jurisdiction will notify the parcel owner by a letter within 30 days from when the report was received. The system shall be re-inspected and an inspection report shall be sent to the authority having jurisdiction. The system shall be considered uninspected until an adequate inspection report is submitted to the authority having jurisdiction.

§ 202-14. Report of Findings

- A. Upon completion of the inspection, the Certified Inspector shall document all procedures and furnish the owner with a report of findings. The report of findings must be the OTN System Inspection Findings Worksheet (Rev. 01/13 or as updated).
- B. All inspection reports must be filed with the authority having jurisdiction within 30 days of the inspection's completion, or by December 31 or the inspection cycle year as required by § 202-11 of this Chapter. Failure to submit the report to the authority having jurisdiction shall be considered a violation of this Chapter and shall be punishable according to Article 8 of this Chapter. The system shall be considered uninspected until an adequate inspection report is submitted to the authority having jurisdiction.
- C. The authority having jurisdiction shall have 30 days to review the inspection report and notify the parcel owner of their findings. If the authority having jurisdiction deems the inspection report adequate, the authority having jurisdiction shall notify the parcel owner by letter, stating that the inspected on-site wastewater treatment system is determined to be either adequately

functioning, a substandard system, or in failure. The report of findings by the Certified Inspector shall be attached and may be used to support the determination.

ARTICLE FIVE – ON-SITE WASTEWATER TREATMENT SYSTEM PERMITTING PROCEDURES

§ 202-15. Application Material. Applications for on-site wastewater treatment system permits shall be made by the parcel owner or a duly authorized agent, accompanied by the appropriate fee, to the authority having jurisdiction. Applications shall include the following information:

- A. The name, address, and telephone number of the applicant.
- B. Specific location of the parcel on which the on-site wastewater treatment system is located or proposed, including the tax map number and address for said parcel.
- C. The number of bedroom and/or bedroom equivalents and the square footage of the building.
- D. All plans shall be designed by a Design Professional showing the location of the proposed on-site wastewater treatment system and all wells, springs, other water supplies, buildings and watercourses within 200 feet of the proposed on-site wastewater treatment system, even if located on adjacent properties.
- E. Evidence to demonstrate that there is no public sewer available into which the sewage can be discharged or that it is impractical to discharge sewage into a community sewerage system.
- F. Evidence to demonstrate that the design complies with Article 2 of this Chapter.
- G. Documentation of substantiating data relating to site conditions, percolation tests, deep hole data, and topography of land.
- H. The authority having jurisdiction may conduct such investigations, examinations, tests and site evaluation to verify information contained in the application following the procedures identified in this Chapter.

§202-16. Administrative Review.

- A. The authority having jurisdiction shall not issue an on-site wastewater treatment system permit unless: A plan is submitted by a Design Professional as required by this Chapter; all permit fees have been paid; the plan complies with all specifications of state and local laws; and within the Canandaigua Lake Watershed, a letter of approval has been obtained from the Watershed Inspector.

- B. When the authority having jurisdiction denies the application for an on-site wastewater treatment system permit, within 7 working days after taking such action, the authority having jurisdiction shall furnish the applicant with a written notice of denial setting forth in detail the reason for such action.

§ 202-17. Fees. The fees for any permit or inspection performed pursuant to this Chapter shall be determined by resolution of the Town Board.

§ 202-18. State or Other Agency Approvals. In addition to the approvals required herein, a review and approval by the New York State Department of Health (NYSDOH) or the New York State Department of Environmental Conservation (NYSDEC) or the Canandaigua Lake Watershed Inspector may be required.

ARTICLE SIX – COMPLIANCE & REPORTING

§ 202-19. Access.

- A. On parcels for which an on-site wastewater treatment system permit or inspection has been requested by the parcel owner or parcel owner's agent, the authority having jurisdiction shall be permitted by the parcel owner to make a physical inspection of the lands and premises in order to determine that all of the requirements of this local law have been complied with.
- B. When an inspection is required by Article 3 of this Chapter, the authority having jurisdiction shall request the permission of the parcel owner to make a physical inspection of the lands, premises, and/or buildings in order to determine that all of the requirements of this law have been complied with. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.
- C. The authority having jurisdiction, upon complaint or upon show of due cause, shall request the permission of the parcel owner to make a physical inspection of the lands, premises, and/or buildings for which an on-site wastewater treatment system is believed to be a cause or potential cause of pollution or a health hazard. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.

§ 202-20. Deficiencies and Corrections.

- A.

(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. _____ of 20¹⁷ of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board _____ on _____ 20¹⁷, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer*)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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 _____ above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: _____

(Seal)

PREPARED