

LOCAL LAW FILING

New York State Department of State

Division of Corporations, State Records and Uniform Commercial Code

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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 of Farmington
Village

Local Law No. 2 of the year 2024

**A Local Law Amending Chapter 126 of the Town of Farmington Code,
entitled "Individual On-Site Wastewater Treatment Systems."**

(Insert Title)

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

County
City
Town of Farmington as follows:
Village

Section 1. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-2 Purpose is hereby amended by deleting the existing Section 126-2 Purpose and replacing in its entirety the following:

§126-2 Purpose.

The purpose of this chapter is to preserve and protect public health and the quality of surface and ground water in the Town of Farmington by mandating the adequate performance of on-site wastewater treatment systems to prevent health hazards and adverse impacts upon the environment. Specifically, this chapter is intended to ensure wastes treated 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; and
- b. Are not accessible to any carriers of disease; and
- c. Do not give rise to a nuisance due to odor or unsightly appearance; and

(1)

- d. Are not a source of nutrient pollution and do not contribute to excessive aquatic weed growth or harmful algal blooms in streams or other bodies of water.

Section 2. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-3 (Reserved), is hereby deleted in its entirety and replaced in its entirety as follows:

§126-3 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.

Section 3. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-4 Authority, is hereby deleted in its entirety and replaced in its entirety to read as follows:

§126-4 Applicability.

This chapter shall govern the treatment of sewage by regulating the operation of all on-site individual wastewater treatment systems (hereinafter referred to as an “on-site wastewater treatment system”); and the maintaining of operating records for all on-site wastewater treatment systems within the Town of Farmington.

Section 4. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-5 Definitions and word usage is hereby deleted in its entirety and is hereby further amended by adding the following definitions in alphabetical order:

ADEQUATELY FUNCTIONING

An on-site wastewater treatment system that meets the design standards contained in this Chapter of the Town Code and shows no evidence of failure. Such system shall be periodically inspected and found not posing a public health threat by virtue of meeting the criteria specified in §126-20 above herein. For this chapter, an “adequately functioning” system shall always include a watertight vessel.

AUTHORITY HAVING JURISDICTION

The Code Enforcement Officer, or other official(s) designated by the Farmington Town Board, or other regulatory agency, having the responsibility to enforce the provisions of this chapter shall include, but not be limited to, the New York State Department of Health (NYSDOH), the Ontario County Soil and Water Conservation District (OCSWCD), or the New York State Department of Environmental Conservation (NYSDEC).

BEDROOM AND/OR BEDROOM EQUIVALENT

For determining the size of an on-site wastewater treatment system, “bedroom and/or bedroom equivalent” shall mean a room with certain features characteristic of bedrooms, generally, which include, but are not limited to the following:

- a. Reasonable access to a full bathroom on the same floor, or within a half floor if the dwelling unit is a split level; or
- b. Adequate means to close off the room for privacy; or
- c. A minimum of 70 square feet in size.

CERTIFIED INSPECTOR

Includes Ontario County Soil and Water District personnel or personal approved by the authority having jurisdiction that is part of the New York State On-site Wastewater Treatment Training Network (OTN).

CHANGE OF USE

A use of land with an associated building and wastewater treatment system that is modified to likely cause an increase in hydraulic loading (e.g., change from an existing commercial use to a residential use; change of an existing residential use to commercial use; change of a commercial use to a different type of commercial use, etc.). A change of use shall also include the removal and replacement of a manufactured or mobile home dwelling.

CODE ENFORCEMENT OFFICER

The Town Official as is further defined in Chapter 74, of the Town of Farmington Town Code.

CONVEYANCE OF REAL PROPERTY

The transfer of the title of real estate, in the form of a deed or other legal instrument, filed in the Office of the Ontario County Clerk, which involves none of the transferors of such deed or other legal instrument remaining in possession of such real estate. Non-arm’s length transfers of title, transfers of an interest in title where one or more of the transferors remain in possession of such real estate and transfers of title to a spouse and/or one or more children, including transfers from a transferor’s estate, shall not be considered conveyance of real property.

CONVEYANCE OF REAL PROPERTY

The transfer of the title of real estate from one to another, in the form of a deed or other legal instrument, filed in the Office of the Ontario County Clerk.

(3)

DESIGN PROFESSIONAL

A person licensed or registered in the State of New York and authorized by New York State Education Law to design the systems described in 10 NYCRR Appendix 75-A.

ENHANCED TREATMENT

The biological and physical treatment of wastewater to reduce the amount of biochemical oxygen demand (BOD) and total suspended solids (TSS) of wastewater effluent prior to distribution to an absorption area.

ENHANCED TREATMENT UNIT

Premanufactured structures that provide enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area.

FAILURE

A condition existing within an on-site wastewater treatment system which causes the system to function in an unsanitary manner and which results in the discharge of untreated or partially treated wastewater onto ground surface, into surface water, into the groundwater, or which results in failure of building plumbing to discharge properly. Meeting any of the following criteria shall constitute failure:

- a. Lack of a watertight vessel (i.e., septic, aerobic treatment unit, etc.) prior to any subsurface treatment/absorption system.
- b. There is a discharge of effluent directly or indirectly to the ground surface and ponding, surface outbreaks or saturated soils are over the absorption area.
- c. "Cheater" or direct pipe surface discharge to include surface discharge of greywater.
- d. A dye test results in the presence of dye on the ground surface.
- e. There is a backup of sewage into the home, building or facility as a result of an overloaded or clogged absorption area.
- f. The septic tank requires pumping more than four times per year and/or sewage is observed running back into the septic tank from the absorption area during pumping.

GREYWATER

All wastewater from a building except from flush toilets and urinals.

HOLDING TANK

A water-tight tank that holds raw sewage and untreated effluent without an outflow. All Holding Tanks shall be equipped with an alarm (audible and visual) located in a conspicuous place to indicate when pump out is necessary. The property owner shall have a contract for service with a New York State Department of Environmental Conservation (NYSDEC) permitted septage waste transporter to pump the holding tank as needed.

LOCAL GOVERNING BODY

The municipal corporation charged with authority to act as the local Board of Health as defined by New York State Public Health Law.

MINOR ALTERATIONS

Routine maintenance and repairs to an approved on-site wastewater treatment system, including but not limited to the following: replacement of a septic tank cover or baffles, replacement of distribution box covers, replacement of cracked pipes, pumping of the septic tank, and replacement of mechanical pumps and devices. "Minor Alterations" shall not include replacement of a septic tank, distribution box, or any addition, alteration or rearrangement of water distribution or drainage piping. Like examples of "Minor Alterations" not specifically listed in this definition shall be determined by the authority having jurisdiction.

NEW CONSTRUCTION

Any building constructed or placed on an undeveloped site requiring the installation of a wastewater treatment system and currently not utilizing the same.

ON-SITE WASTEWATER TREATMENT SYSTEM

A complete system of piping, watertight vessels or other facilities for the on-site collection, transport and treatment of sewage.

ON-SITE WASTEWATER TREATMENT SYSTEM PERMIT

A written permit issued by the Code Enforcement Officer.

(5)

OTN INSPECTOR

Industry professional who has been trained and has successfully completed the 7 ½ hour course for inspecting existing residential on-site wastewater treatment systems and has received a registration number from the New York Onsite Wastewater Treatment Training Network (OTN) indicating such. If the OTN stops registering inspectors, the authority having jurisdiction will work with the Code Enforcement Officer to administer a training program and publish a list of approved inspectors for the public.

SEWAGE

The combination of human and household waste with water, which is discharged to the plumbing system, including the waste from a flush toilet, bath, shower, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any fixture, equipment of machine.

SITE DESIGN AND DEVELOPMENT CRITERIA MANUAL

The manual adopted by and maintained by the Farmington Town Board providing design and criteria for approving development within the Town of Farmington. As pertaining to the provisions in this Chapter (126) of the Farmington Town Code, Section 2, Design Criteria, Subsections A and B pertaining to the design criteria for operating and maintaining on-site wastewater treatment systems within the Town of Farmington.

SUBSTANDARD SYSTEM

On-site wastewater treatment system that does not meet the design standards specified in this Chapter of the Farmington Town Code but shows no evidence of failure.

WORK AREA

That portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work area excludes other portions of the building where incidental work entailed by the intended work must be performed and positions of the building where work not initially intended by the owner is specifically required by this Chapter.

Section 5. Chapter 126, Article II, General Regulations and Requirements, Section 126-6 Prohibitions, Subsections A, B, and C, are hereby amended by deleting these subsections in their entirety and replacing them in their entirety as follows:

§126-6 Prohibitions.

- A. It shall be unlawful to install, construct, alter, replace, enlarge, extend, or otherwise modify any existing wastewater treatment system until an on-site wastewater treatment system permit issued by the authority having jurisdiction has been filed with the Town Code Enforcement Officer.
- 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 25% of the square footage, or alter a building or dwelling such that the work exceeds 50% 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 II of this chapter.
- C. It shall be a violation of this chapter to use any on-site wastewater treatment system that is in failure.

Section 6. Chapter 126, Article II, General Regulations and Requirements, Section 126-6 Prohibitions, Subsections A, B, C and D, are hereby further amended by adding new Subsections 126-6 E and F to read in their entirety as follows:

§126-6 Prohibitions.

- 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. All new on-site wastewater treatment systems or modifications to existing on-site wastewater treatment systems shall be designed by a New York State licensed design professional.

Section 7. Chapter 126, Article II, General Regulations and Requirements, Section 126-7 Design standards for new on-site wastewater treatment systems, Subsections A and B are hereby deleted in their entirety and replaced in their entirety to read as follows:

(7)

§126-7

Design standards to meet the requirements of this chapter are as follows:

- a. The Design Criteria contained within Section 2, 2.01, A & B, Sewage Disposal Systems, Town of Farmington Site Design and Development Criteria.
- b. New York State Department of Health's Appendix 75-A, Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR) for systems with a design load of less than 1,000 gallons per day.
- c. 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 1,000 gallons per day.
- d. In addition to the New York State design standards, the following standards shall also be met for all dwellings:
 - (1) The number of bedrooms and/or bedroom equivalent for design loaded purposes, as follows:
 - (a) Minimum design: two (2) bedrooms.
 - (b) Two (2) bedrooms and/or bedroom equivalents of up to 1,200 square feet of occupiable living space shall be designed as a two-bedroom design load.
 - (c) Three (3) bedrooms and/or bedroom equivalents of 1,201 to 2,250 square feet of occupiable living space shall be designed as a three-bedroom design load.
 - (d) Four (4) bedrooms and/or bedroom equivalents of 2,251 to 3,300 square feet of occupiable living space shall be designed as a four-bedroom design load.
 - (e) Five (5) bedrooms and/or bedroom equivalents or 3,301 to 4,050 square feet of occupiable living space shall be designed as a five-bedroom design load.
 - (f) More than five (5) bedrooms and/or bedroom equivalents or greater than 4,050 square feet of occupiable 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.

- (2) Replacement of septic tanks and distribution boxes shall require a building permit but do not need to be designed by a design professional provided such repairs are made to replace existing failed conditions. All alterations to the absorption field shall also require a building permit and a design completed by a design professional.
- (3) In addition to the approvals required herein, a review and approval by the New York State Department of Health (NYSDOH), the New York State Department of Environmental Conservation (NYSDEC) or the Ontario County Soil and Water Conservation District may be required.

Section 8. Chapter 126, Article II, General Regulations and Requirements, Section 126-8 Design standards for existing on-site wastewater treatment systems, Subsections A and B are hereby deleted in their entirety and replaced in their entirety to read as follows:

§126-8 Requirements for substandard on-site wastewater treatment systems.

- (1) The parcel owner shall follow the procedures in Article IV 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. The authority having jurisdiction shall take the following into consideration when determining if the on-site wastewater treatment system meets the design standards of §126-21.1 to the greatest extent possible:
 - (a) Previous approvals and/or specific waivers granted by NYSDOH, or the watershed inspectors; and
 - (b) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient, and/or other pollutant loading; and

(9)

- (c) The ability to utilize the latest technology and the ability to maintain that technology; and
 - (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) Once the authority having jurisdiction has determined that the substandard system meets the design standards of § 126-21.1 to the greatest extent possible, the authority having jurisdiction shall provide the parcel owner with a building permit and a letter of acknowledgement stating that the parcel owner is meeting the design standards of § 126-21.1 to the greatest extent possible.
- (3) 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.

Section 9. Chapter 126, Article II, General Regulations and Requirements, Section 126-10 Site limitations, Subsections A, B, C and D are hereby deleted in their entirety and this Section is replaced in its' entirety to read as follows:

§126-10 Requirements for failed or substandard systems.

- A. On parcels with existing substandard on-site wastewater treatment systems that have topographic, physiographic, lot size or other site limitations that do not allow for meeting the design standards in §126-21.1. the authority having jurisdiction shall require the parcel owner to meet the design standards within §126-21.1, to the greatest extent possible.
- B. The parcel owner shall follow the procedures in Article IV 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 § 126-7 to the greatest extent possible:

- (1) Previous approvals and/or specific waivers granted by NYS-DOH, or the watershed inspectors; and
- (2) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient, and/or other pollutant loading; and
- (3) The ability to utilize the latest technology and the ability to maintain that technology; and
- (4) Existing lot line setbacks and area requirements as related to individual properties; and
- (5) The extent to which the limitations are self-created.

C. Once the authority having jurisdiction has determined that the substandard system meets the design standards of § 126-7 to the greatest extent possible, the authority having jurisdiction shall provide the parcel owner with a letter of acknowledgement stating that the parcel owner is meeting the design standards of § 126-7 to the greatest extent possible. This letter of acknowledgement shall then be provided to the Town Code Enforcement Officer who shall issue a Building Permit to allow corrections to be made, in accordance with the design standards set forth within said letter of acknowledgement, for the substandard system. Said Building Permit shall be conditioned upon site inspections during construction by the authority having jurisdiction and shall remain valid for a period of six months. Upon completion of all components of the previously determined substandard system a final inspection report shall be provided by the authority having jurisdiction to the Town Code Enforcement Officer. A Certificate of Compliance shall then be issued to the property owner(s).

Section 10. Chapter 126, Article II, General Regulations and Requirements, Section 126-11 Maintenance and protection, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-11 Maintenance of enhanced on-site wastewater treatment systems.

- A. All enhanced treatment systems (ETSS) 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 system. 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 system 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 VII of this chapter.

- B. Septic Tanks. All tanks shall meet the design standards contained in 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 (10 NYCRR). The owner shall have a contract for service with a NYSDEC-permitted septage waste transporter to pump the septic 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 to the surface, ground, or surface water be allowed.

Section 11. Chapter 126, Article II, General Regulations and Requirements, Section 126-12 State or other agency approvals, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-12 Inspections of existing on-site wastewater treatment systems.

- A. The authority having jurisdiction shall require an on-site inspection of an existing on-site wastewater treatment system as follows:

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- (1) Prior to a change of use or transfer of title to the property, the owner of the property shall arrange for an on-site wastewater treatment system inspection before any change of use or change of ownership is undertaken. The authority having jurisdiction shall determine whether the change represents an increased hydraulic loading to the system.

In instances where a site plan approval, special use permit, conditional use permit, or zoning variance is required, the authority having jurisdiction shall incorporate the on-site wastewater treatment system inspection report into the appropriate review process of the Planning Board or Zoning Board of Appeals.

- (2) Prior to a conveyance of real property, the owner of the parcel shall arrange for an on-site wastewater treatment system inspection. For conveyance of real property, the inspection must be completed at least 10 days and not more than six (6) months prior to the transfer of property. The inspection report must be filed with the authority having jurisdiction, the Town Development Office, the current owner, and the proposed new owner prior to the transfer of property. It shall be a violation of this chapter to not have the property inspected prior to the conveyance of real property. If the required inspection does not occur prior to the conveyance of real property, then the authority having jurisdiction will inspect the system following the access procedures defined in this chapter.
- (3) Prior to the expansion of a building or dwelling that will increase the number of bedrooms and/or bedroom equivalents or increase the building or dwelling 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 modifications made to the absorption field or any change in the treatment system type.

B. Inspection procedure.

- (1) All existing on-site wastewater treatment systems requiring an inspection pursuant to this chapter shall be performed by a certified inspector.
- (2) 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 IV of this chapter.
- (3) The authority having jurisdiction shall have thirty (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 reinspected, and an inspection report shall be sent to the authority having jurisdiction. The system shall be considered incomplete until an adequate inspection report is submitted to the authority having jurisdiction.

C. Report of Inspection Findings.

- (1) Upon completion of the inspection, the certified inspector shall document all procedures and furnish the owner with a report of findings.
- (2) All inspection reports must be filed with the authority having jurisdiction within 30 days of the inspection's completion. 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 VII of this chapter. The system shall be considered uninspected until an adequate inspection report is submitted to the authority having jurisdiction.

(3) The authority having jurisdiction shall have thirty (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.

(4) All reports shall include photographs of the distribution box and tank.

Section 12. Chapter 126, Article II, General Regulations and Requirements, Section 126-13 Use of design professionals and Ontario County Soil and Water Conservation District, Subsections A., B., and C. is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-13 Use of design professionals and Ontario County Soil and Water Conservation District.

- A. The Code Enforcement Officer shall have the authority to require the property owner to retain the services of a design professional to conduct site and soil appraisals (e.g., percolation tests and deep hole tests) and to document said appraisals. The design professional shall certify that the on-site wastewater treatment system is being installed, or replaced meets the requirements of this Chapter and the standards of applicable state laws.
- B. The results of all site and soil appraisals, system design plans and certification(s) of installed on-site wastewater treatment systems shall be filed in the property file located within the Town Development Office.
- C. The Town Board shall contract with the Ontario County Soil and Water Conservation District Office through its Uniform Procedures Program for inspections performed pursuant to §126-19 of this Chapter.
- D. All costs associated with site and soil appraisals and inspections referenced above herein shall be charged to the property owner.

Section 13. Chapter 126, Article III, Requirements for new on-site wastewater treatment systems, Section 126-17 Inspection certifications, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

- A. Installation of or changes to the on-site wastewater treatment system shall be under the direct supervision of the design professional. The authority having jurisdiction shall have the right to observe any portion of the installation of the system before it is covered. Such written notice shall be given to the Applicant as part of the building permit.
- B. The Applicant shall be prohibited from covering any component of the on-site wastewater treatment system without authorization from the Town Code Enforcement Officer (CEO). Any change of construction approved by the CEO shall be noted on the original drawings before the system is backfilled. An additional review and approval shall not be required for any minor alterations to the design already approved by the authority having jurisdiction. Major alterations to the system design shall require review and approval by the authority having jurisdiction. Major alterations include any changes to the absorption field and/or changes to the size or type of pretreatment tank. As built plans shall be certified by the design professional and provided to the CEO.
- C. The Code Enforcement Officer may, by written notice, order all work stopped on any on-site wastewater treatment system which is found to be in violation of this chapter.
- D. The Code Enforcement Officer shall have the right to require the design professional responsible for the design of the on-site wastewater treatment system to certify their inspection of the system prior to backfill. This certification shall state... "I have inspected the on-site wastewater treatment system installed at the subject property prior to backfill and found it to be in compliance with all applicable provisions of New York State Regulations and Chapter 126 of the Farmington Town Code." This certification shall bear the original seal and signature of the design professional.
- E. As-built plans and construction certification by a design professional shall be provided to the CEO after installation is complete.

Section 14. Chapter 126, Article III, Requirements for new on-site wastewater treatment systems, Section 126-18 Fees, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-18 Fees.

The fees for any permit or inspection performed pursuant to the provisions contained in this Chapter shall be determined, from time to time, by the Town Board and shall be made part of the Town's Fee Schedule. The Applicant, by signing the Permit Application Form, agrees to payment to the Town for all authorized inspection fees and services.

Section 15. Chapter 126, Article IV, Requirements for existing on-site wastewater treatment systems, is hereby amended by adding a new Section 126-121.1, Replacement of septic tanks and distribution boxes, to read as follows:

§126.21.1 Replacement of septic tanks and distribution boxes.

Replacement of septic tanks and distribution boxes shall require a Building Permit from the Town Code Enforcement Officer, 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 a Building Permit which shall be issued based upon a design completed by a design professional.

Section 16. Chapter 126, Article V, Compliance and reporting, is hereby amended by adding a new Section 126-22 A., Compliance and reporting to read as follows:

§126.22 A. Compliance and reporting.

- (1) On parcels for which a building permit for an on-site wastewater treatment system 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 to determine that all of the requirements of this chapter have been complied with.

- (2) When an inspection is required by the provisions within Article III of this chapter, the authority having jurisdiction shall order the parcel owner to provide a report of findings attested to by a design professional or an on-site training network Registered Inspector as will adequately describe the type, capacity, location of the elements of the existing system, condition, and functionality of the existing system in order to determine that all of the requirements of this chapter have been complied with. Upon receipt of order, the parcel owner shall be given thirty (30) days to complete a new inspection of the on-site wastewater system and submit a report of findings to the authority having jurisdiction. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.

- (3) The authority having jurisdiction, upon show of due cause, shall order the parcel owner to provide a report of findings attested to by a design professional or an on-site training network Registered Inspector as will adequately describe the type, capacity, location of the elements of the existing system, condition, and functionality of the existing system. Upon receipt of order, the parcel owner shall be given 30 days to complete a new inspection of the on-site wastewater system and submit a report of findings to the authority having jurisdiction. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.

Section 17. Chapter 126, Article V, Compliance and reporting, is hereby amended by adding a new Section 126-22 B. Deficiencies and corrections, to read as follows:

§126.22 B. Deficiencies and corrections.

- (1) Upon discovery of an on-site wastewater treatment system which is in failure, the authority having jurisdiction shall immediately notify the parcel owner in writing of the failure through a notice of violation. It shall be the responsibility of the parcel owner to forward the notice of violation to other involved or interested parcel owners or renters. The notice of violation shall include the specific section

(18)

of the law being violated, the components of the system which are not in compliance with the requirements of this chapter, the action that is necessary to correct the noncompliance, the date by which the permit must be obtained, the timeframe in which corrective actions must be completed.

- (2) The authority having jurisdiction shall, by written notice and/or posting, order all work stopped on any on-site wastewater treatment system which is in violation of this chapter.
- (3) Upon receipt of a notice of violation of a failed system that is directly discharging to the surface and/or surface water, the authority having jurisdiction shall order that the discharge be terminated immediately and if the on-site wastewater treatment system has a tank, the outlet shall be sealed, and the tank used as a Holding Tank until the system is brought into compliance.

Section 18. Chapter 126, Article VI, Complaints, is hereby amended by adding a new Section 126-23 Notification, subsections A., B. and C., to read as follows:

§126.23 Notification.

- A. Complaints by individuals shall be made in writing to the Town Code Enforcement Officer with supporting information that an on-site wastewater treatment system may be in failure. Such information may include, but is not limited to samples of groundwater, surface water, or photos of above ground seepage, or conditions otherwise creating a public nuisance.
- B. If after further investigation by the Town Code Enforcement Officer (CEO) there is due cause, the CEO shall notify the property owner and the inhabitants of the property in writing, within seven business days of receipt of the complaint and shall request access to the property to further investigate the potential failure. A copy of such notice shall also be sent to the Town Clerk.
- C. The CEO shall follow the procedures in Article IV of this chapter to gain access to the parcel and depending upon findings of the investigation, the CEO will follow procedures established to remedy any deficiencies.

Section 19. Chapter 126, Article VII, Administrative Relief, is hereby amended by deleting §126-24, Appeals, in its entirety and replacing with a new Section 126-24, Appeals for Failed Systems and a new Section 126-24.1, Appeals for non-failed systems, to read as follows:

§126.24 Appeals for Failed Systems.

- A. Appeals for failed systems shall follow the standard procedures that are set forth below herein, with all appeals made to the Town Board setting as the local Board of Health.
- B. Appeals of any actions, omissions, decisions, or rulings of the Code Enforcement Officer shall be made in writing to the Town Board and must be instituted 30 days of the ruling from which relief is sought.
- C. Within 30 days of receipt of a written appeal of a decision or interpretation by the CEO, the Town Board shall give notice of a public hearing to be held on the appeal.
- D. Within 30 days of final adjournment of a public hearing, the Town Board shall, based upon the findings set forth below in Section 126-24.1 of this Chapter, either affirm, modify or overrule the decision of the CEO.
- E. The decision of the Town Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board. The Town Board's discretion in considering an appeal under this chapter shall not extend to granting variances from this chapter but shall rather be limited to reviewing the Code Enforcement Officer's interpretation or application of the terms hereof. Variances from the substantive requirements (e.g., septic tank sizes, setback distances, etc.) remain under the jurisdiction of the NYSDOH and the NYSDEC.

§126-24.1 Appeals for relief from the requirements of this chapter.

- A. Where practical difficulties or unnecessary hardships result from the strict compliance with the requirements of this chapter and which are inconsistent with the general purpose of this chapter or certain provisions thereof are encountered, the property owner may appeal an interpretation made by the Town Code Enforcement Officer (CEO) of a failed system, to the Town Board acting as the local Board of Health.

B. The Town Board, in deciding upon an appeal of an interpretation by the CEO shall consider the following criteria when making its' findings:

(1) Whether the use or activity to be authorized is in harmony with the purpose and intent of this Chapter, the following considerations will be determined:

(a) Previous approvals and/or specific waivers that may have been granted by the New York State Department of Health, or the Town Board sitting as the local Board of Health; and

(b) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient and/or other pollutant loading; and

(c) The ability of the property owner to use the most recent approved technology and the property owner's ability to maintain that technology in a particular incident; and

(d) Existing setback from property lines adjacent to the subject property.

(2) Whether a substantial change will be produced in the general condition of the water quality or a substantial risk to groundwater quality or quantity will be created because of the variance.

(3) Whether the hardship or difficulty can be alleviated by some other method that is feasible for the applicant to pursue.

Section 19. Chapter 126, Article VIII, Enforcement, is hereby amended by deleting §126-25, Violations, in its entirety and replacing with a new Section 126-25, to read as follows:

§126-25 Violations.

A. In any instance where this chapter is violated, the Town of Farmington may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with the terms of this chapter, or to enforce a violation of this chapter, or to restrain by injunction the violation of this chapter.

- B. An application for a building permit shall include a section requiring consent by the parcel owner to permit the authority having jurisdiction to enter upon the premises without a search warrant to inspect the work which is the subject matter of the permit application.

- C. If a parcel owner fails to complete an inspection required by this chapter, or to allow access to the parcel for the required inspection, the authority having jurisdiction shall obtain an administrative search warrant, which may be issued by a court of competent jurisdiction, to complete the required inspection.

- C. The Town Board (acting as the Town Board of Health) may schedule a hearing on an on-site wastewater treatment system that the authority having jurisdiction has determined to be in failure and has not been rectified by the parcel owner. In instances where the violation is deemed by the authority having jurisdiction to pose an imminent threat to public health, the Town 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 parcel. The Town Board shall ascertain the cost of such correction action and such cost shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

Section 20. Chapter 126, Article VIII, Enforcement, is hereby amended by deleting §126-26, Alternative remedies, in its entirety.

Section 21. Chapter 126, Article VIII, Enforcement, is hereby amended by renumbering §126-27 to §126-26, Misrepresentation.

Section 22. Chapter 126, Article VIII, Enforcement, is hereby amended by adding a new §126-29, Conflict of law, to read in its entirety as follows:

§126-29 Conflict of Law.

In any case where a provision of this chapter is found to conflict with a provision of any ordinance or local law, or with a provision of any statute, rule, regulation, or order of the State of New York, the provision which establishes the higher standard for the promotion of health, safety or welfare of the residents of the Town of Farmington shall prevail. In any case where a provision of this chapter is found to conflict with a provision of any other ordinance or local law existing on the effective date of this chapter, which establishes a lower standard for the promotion of health, safety or welfare of the residents of the Town of Farmington shall prevail.

Section 23. If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 24. This local law shall take effect immediately upon filing with the Secretary of State.

(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. 2 of 2024 of the Town of Farmington was duly passed by the Farmington Town Board on January 23, 2024, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

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)(repassed after disapproval) by the _____ and was deemed duly adopted 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)(repassed after disapproval) by the _____ on _____, 20__. 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)(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.

¹*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 _____ 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.)

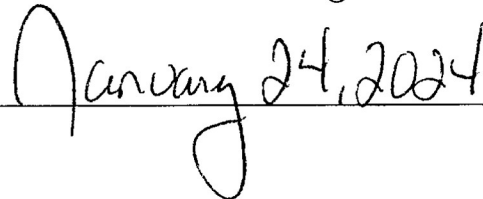
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November __, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and 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 1, above.



Clerk of the Town

Date: 

(Seal)