

## Chapter 137

### SEPTIC SYSTEMS

**[HISTORY: Adopted by the Town Board of the Town of Queensbury as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Sewers and sewage disposal — See Ch. 136.

Water — See Ch. 173.

Stormwater management — See Ch. 147.



ARTICLE I  
**Septic Inspection Upon Property Transfer**  
**[Adopted 10-15-2018 by L.L. No. 2-2018]**

**§ 137-1. Title.**

This article shall be known as "Septic Inspection Upon Property Transfer."

**§ 137-2. Statutory authority.**

Enactment of Chapter 137 of the Queensbury Town Code is pursuant to Article 16 of the Town Law and Article 3 of the Public Health Law.

**§ 137-3. Findings and intent.**

The intent of this article is to better protect water bodies from exposure to excess nutrients and pollutants. The Town of Queensbury finds that the occurrence of such nutrients and pollutants is increased by the presence of inadequately functioning septic systems proximate to water bodies. In addition, such septic systems are more likely to be a threat to public health with particularly acute impacts upon the general public through impairing and contaminating precious ecological resources of the Town of Queensbury and rendering drinking water unsafe. In determining the geographic scope of this article, the Town further finds that it is desirable and efficient to rely upon the zoning district boundaries of the Town of Queensbury Waterfront Residential (WR) Zone as properties within this zoning district are proximate to water bodies within the Town. As to water bodies not surrounded or adjacent to such zoning district, such properties are zoned in such a manner that has adequately protected and will continue to protect such water bodies and additional regulation is not currently needed in such areas at this time.

**§ 137-4. Compliance required.**

- A. Applicability. This article shall apply to conveyances of real property located wholly or partially in the Waterfront Residential Zone, as defined in the Town Code, occurring on January 1, 2019, and thereafter.
- B. Property transfer inspections.
  - (1) Prior to any conveyance of real property in the Town of Queensbury Waterfront Residential (WR) Zone where the property utilizes an on-site wastewater treatment system (OWTS), the OWTS must be inspected by the Town of Queensbury Building and Codes Enforcement Office (herein referred to as the "Building and Codes Enforcement Office"). The inspection shall include a septic tank pump out by a NYSDEC registered septic hauler and all seepage pits and septic drainfield distribution boxes (D-box) accepting effluent from a septic tank must be uncovered and opened by the property owner or their agent prior to inspection. The property transfer inspection and pump out shall be arranged by the property owner as early in the conveyance of real property process as possible in order to obtain an accurate and timely assessment of the OWTS. Upon submission of a complete application to the Building and Codes Enforcement Officer and payment of the applicable fee, the property owner must make arrangements to schedule the inspection with

no less than 48 hours' advance notice and shall coordinate with the septic hauler to be on site simultaneously. The cost of the inspection, as set forth in the Town's Fee Schedule Ordinance, shall be paid to the Town of Queensbury prior to the inspection. Inspections must be undertaken within one year of the application or a renewal application with payment of the associated fee will be required. **[Amended 1-13-2020 by L.L. No. 1-2020]**

- (2) No such conveyance shall take place subject to this article until and unless:
  - (a) The owner/seller has obtained from the Building and Codes Enforcement Office a letter of acknowledgement demonstrating satisfactory compliance with this section;
  - (b) The owner/seller has obtained a variance/waiver from the Town Board in accordance with this article; or
  - (c) The conveyance is exempt from the property transfer inspection requirements and the owner/seller complies with all applicable provisions for exemption set forth in this article.
- (3) As used herein, the term "conveyance of real property" shall mean the transfer of the title of real estate, in the form of a deed or other legal instrument, whether or not recorded in the Office of the Warren County Clerk. It shall be violation of this article not to have the property inspected prior to the conveyance of real property.
- (4) Upon satisfactory inspection in accordance with the protocol set forth in Subsection B(5) below, the Building and Codes Enforcement Office will issue to the property owner a letter of acknowledgment confirming that the OWTS is functioning properly.
- (5) The OWTS inspection shall utilize the New York On-site Wastewater Treatment Training Network (OTN) materials, including the OTN System Inspection Request Form, Findings Worksheet and Site Report (Inspection Findings), all of which shall be available in the Building and Codes Enforcement Office. The following minimum standards shall apply to each inspection:
  - (a) All septic tanks and holding tanks must be within 250 gallons of the minimum volume requirement; minimum volume includes bedrooms, rooms used for sleeping, Jacuzzi tubs and garbage grinders; **[Amended 1-13-2020 by L.L. No. 1-2020]**
  - (b) All holding tanks shall be equipped with a float switch with a 50% level alarm, a 100% high-level alarm located in a conspicuous place to indicate when pump out is necessary and a water shut off device. A copy of pump out records shall be submitted during the inspection prior to conveyance of real property; **[Amended 1-13-2020 by L.L. No. 1-2020]**
  - (c) For an aerobic treatment system or enhanced treatment unit (ETU), the new owner must send a signed copy of an updated service contract to the Town within 30 days after the conveyance of real property.

- (d) If the on-site wastewater treatment system is determined to be failing or inadequate, a written notice of violation will be issued. An approved compliance agreement to correct the violation must be obtained prior to conveyance of real property.
- C. Exemption from property transfer inspection. The following conveyances of real property shall be exempt from the provisions of this article in the following situations and pursuant to the terms identified below: **[Amended 5-20-2019 by L.L. No. 5-2019]**
- (1) The property to be sold or transferred will not be inhabited, and the new owner plans to demolish the existing structure and remove the OWTS within six months. In order to qualify for the exemption, a notarized affidavit must be submitted to the Building and Codes Enforcement Office stating that the dwelling will not be inhabited and that it will be demolished and the OWTS fully removed within six months. In addition, a check payable to the Town of Queensbury in the amount of \$2,000 must accompany the notarized affidavit. Such funds will be held in a non-interest-bearing escrow account and will be released upon confirmation that demolition and removal have been timely carried out. Failure will result in forfeiture of the deposit pursuant to § 137-4C(6) unless an appeal to the Town Board is timely made pursuant to § 137-5, in which case the Town Board may grant an extension. **[Amended 1-13-2020 by L.L. No. 1-2020]**
  - (2) An OWTS inspection was not able to be completed prior to the conveyance of real property due to inclement weather. In order to qualify for the exemption, a notarized affidavit from the new property owner to complete the requisite OWTS inspection within six months of the date of the conveyance of real property, or June 1, whichever comes first, must be filed with the Building and Codes Enforcement Office. A check payable to the Town of Queensbury in the amount of \$2,000 will be held in a non-interest-bearing escrow account and shall be released upon the completion of a satisfactory OWTS inspection from the Building and Codes Enforcement Office.
  - (3) The property to be sold or transferred contains an existing OWTS that does not comply with the provisions of this article, and the prospective purchasers and/or the Seller wish to forgo an inspection in favor of installing an approved OWTS within six months of the transfer of property. In order to qualify for the exemption, a notarized affidavit must be submitted to the Building and Codes Enforcement Office stating that the existing OWTS will be replaced within six months from transfer of property. The affidavit must be accompanied by a site plan, including adequate detail to demonstrate that the replacement OWTS will comply with this article, together with a check payable to the Town of Queensbury in the amount of \$2,000. Such funds will be held in a non-interest-bearing escrow account and will be released upon issuance of a certificate of compliance from the Building and Codes Enforcement Office.
  - (4) During the OWTS inspection, a failure of the septic system was determined. Due to winter and frozen conditions, the repair to an existing OWTS could not occur or a new OWTS could not be installed before the conveyance of real property. In order to qualify for the exemption, a notarized affidavit from the

new property owner to complete the installation or repair of the septic system within six months from the date of the conveyance of real property, or June 1, whichever comes first, must be filed with the Building and Codes Enforcement Office. A check payable to the Town of Queensbury in the amount of \$2,000 will be held in a non-interest-bearing escrow account and shall be released upon the completion of the repair or installation of a new septic system and a satisfactory OWTS inspection from the Building and Codes Enforcement Office.

- (5) There is record of the property's OWTS having passed Town inspection within the last three years.
  - (6) Failure to complete the inspection, obtain the permit or complete all repairs/installations identified in the preceding subsections of this section within the time provided or any subsequent deadline established by the Building and Codes Enforcement Office will result in forfeiture of the moneys held in escrow, and the Town may use such funds toward abating the conditions caused by each such violation of this article.
- D. Failure of OWTS. Failure of an existing OWTS occurs when the standards for lawful OWTS as set forth in Chapter 136 and this article are not met. While not exhaustive, some examples of a failing system include the following:
- (1) Lack of a pre-treatment vessel (i.e., septic tank, aerobic treatment unit, ETU, etc.) prior to effluent discharge to any subsurface treatment (soil treatment area or absorption field);
  - (2) There is a discharge of effluent directly or indirectly to the ground's surface, with surface breakouts, ponding or saturated soils over the soil treatment area;
  - (3) Direct pipe surface discharge of grey water (into a dry well, over an embankment, into a roadside ditch or stream/tributary, etc.);
  - (4) A dye test results in the presence of dye on the ground surface or adjacent/downstream water body;
  - (5) There is a backup of sewage into the home, building, septic tank or facility as a result of a septic tank overload or malfunction, or a clogged soil treatment area;
  - (6) The septic tank requires pumping more than four times per year and/or sewage is observed flowing back into the septic tank from the secondary treatment area during pump out;
  - (7) Presence of a metal septic tank that is undersized and/or corroded;
  - (8) A cesspool, defined as a covered hole or pit used to receive untreated sewage from a house or building constructed as a primary source of wastewater disposal;
  - (9) A holding tank that discharges effluent to surrounding subsurface areas;
  - (10) No septic tank, seepage pit, enhanced treatment unit or soil treatment area

(STA) shall be permitted to discharge to any natural outlet or adjoining property.

- E. Access to parcel for inspection. On properties for which an OWTS inspection has been requested by the owner or owner's agent pursuant to this article, the Building and Codes Enforcement Office shall be permitted by the property owner to make a physical inspection of the lands and premises in order to determine compliance with this article.

#### **§ 137-5. Review.**

Appeals from determinations of the Building and Codes Enforcement Office and/or requests for variance/waivers from the provisions of this article must be sought from the Town of Queensbury Town Board as the local Board of Health within 60 days.

- A. Forms for such Appeals and/or requests for variance and waivers will be made available to the public in the Building and Codes Enforcement Office. Such forms must be properly filled out and must be submitted to the Building and Codes Enforcement Office with payment of the applicable fee as established by the Town Board.
- B. In evaluating appeals from determinations of the Building and Codes Enforcement Office, the Town Board may consider whatever information it deems relevant, including any evidence or information submitted by the applicant and any information obtained from the Building and Codes Enforcement Office and/or Town Engineer. In the event additional information is needed, the Town Board may direct a subsequent inspection of the OWTS at issue, in which case the applicant will not be required to make any additional inspection payments.
- C. In regard to any request for variance or waivers, such applications will be governed by the procedure set forth in Town Code Section § 136-44.1C(1) through (3). The Town Board should take into consideration all matters it deems relevant, including the age of the OWTS, whether it appears to be functioning, its proximity to any water body, its age, the circumstances concerning the request for variance or waiver and the hardship to the property owner in the event no variance or waiver is granted.
- D. The above remedies shall be exhausted prior to any judicial review.

#### **§ 137-6. Notice of violation; penalties for offenses.**

If a property owner fails to complete an inspection required by this article, or to allow access to the property for the required inspection, or if the property owner fails to comply with any other provision of this article, a notice of violation may be issued by the Building and Codes Enforcement Office mandating the compliance with the inspection requirements.

- A. In the event the property owner in its capacity as grantor was issued a notice of violation and such violation continues for a period of six months, the current property owner (or grantee) too shall be deemed to be in violation of this article and may be subject to enforcement proceedings.
- B. An offense against any provision of this article shall constitute a violation,

punishable by a fine not exceeding \$950, or imprisonment for a term not exceeding 15 days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation.



ARTICLE II  
**North Queensbury Wastewater Disposal District No. 1**  
**[Adopted 10-17-2022 by L.L. No. 12-2022]**

**§ 137-7. Purpose; intent.**

The North Queensbury Wastewater Disposal District No. 1 (District) was formed by the Queensbury Town Board to protect the waters of Lake George. The District is located entirely within the Dunham's Bay Area along the east shore of Lake George. Lake George is classified as an "AA-Special" water body and serves as a source of drinking water for residents of all eight Towns within the Lake George Basin. On-Site Wastewater Treatments Systems (OWTS) are the sole method of wastewater disposal within the District. Therefore, continued protection of the waters of Lake George is imperative and poorly maintained or malfunctioning OWTS within the District contribute to the contamination and degradation of groundwater and ultimately the water quality of Lake George. The Queensbury Town Board recognizes that OWTS will eventually degrade, even with proper maintenance and operation and that ongoing vigilance to ensure that such systems are properly operating and are appropriately repaired and replaced when necessary is crucial to protect groundwater and the waters of Lake George. The District was formed pursuant to New York State Town Law § 190-e to facilitate the Town's goals of promoting and requiring the rehabilitation, replacement and proper operation and maintenance of OWTS and the Town has the lawful authority to monitor such systems for this purpose, including providing for regular inspections.

**§ 137-8. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ENHANCED TREATMENT UNIT or ETU** — A premanufactured structure that provides enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area. Such units provide for the biological and physical treatment of wastewater to reduce the amount of biochemical oxygen demand and total suspended solids of wastewater effluent prior to distribution to an absorption area. Such units typically lack one or more component parts typical of conventional OWTS.

**ON-SITE WASTEWATER TREATMENT SYSTEM or OWTS** — Multistage systems that collect, treat, and disperse wastewater to the soils rather than transported off site. Conventional septic systems typically consist of a septic tank, distribution box, leach lines and a leach field or treatment field.

**§ 137-9. Inspections.**

- A. To confirm compliance with the provision of this Article II, the Town of Queensbury Building and Codes Enforcement Officer, a designee of such official or other professional approved/selected by the Queensbury Town Board shall have the right to inspect all OWTS within the District once every five years to ensure compliance with the provisions of this article. The inspection shall include a septic tank pump out by a NYSDEC registered septic hauler and all seepage pits and septic drainfield distribution boxes (D-box) accepting effluent from a septic tank, all septic tank inlet and outlet access covers, all pump stations and holding tank access covers must be uncovered and opened by the property owner or their agent prior to

the inspection. If access covers are more than 12 inches below grade, they must be outfitted with extension covers. It is the owner's obligation to arrange for these required actions and to arrange for the necessary inspections. The OWTS inspection shall utilize the New York On-site Wastewater Treatment Training Network (OTN) materials, including the OTN system inspection request form, findings worksheet and site report (inspection findings), all of which shall be available in the Building and Codes Enforcement Office. The cost of the inspection will be established by Town Board resolution as set forth in the Town's Fee Schedule Ordinance and shall be the same amount charged for septic inspections performed by the Towns' Building and Codes Enforcement Official under other provisions of this Code. The cost of inspections shall be borne by the property owner and shall be paid prior to the inspection. Inspections shall be performed on or before July 15 of such year.

- B. Inspections will not be required within the first five years of installation of entirely new OWTS provided such OWTS were fully lawful when installed and provided further that there are no indicia of system failure, including, but not limited to, the appearance of surface effluent and/or the presence of effluent odors. Lawful OWTS shall include those that are lawful by virtue of the issuance of one or more septic variances by the Town Board. For purposes of this provision, for OWTS to be considered entirely new, their component septic tanks, pump stations and either leach fields or seepage pits must be new and cannot have been part of the previous OWTS.
- C. Nothing contained in this provision shall prevent additional inspections within this five year period if there are any indicia of OWTS failure, including, but not limited to, the appearance of surface effluent and/or the presence of effluent odors.
- D. The Town Board may, in its discretion, contract with a consultant of its choosing to conduct initial information gathering activities which may include contact and coordination with landowners to identify the location and nature of the OWTS and/or OWTS components and create an inventory of all OWTS infrastructure within the District. Related costs shall be a District expense.
- E. Notwithstanding any other provision of this § 137-9, where an inspection is required pursuant to Article I of this chapter, such inspection must be undertaken regardless of the fact that the OWTS to be inspected has been installed and in use for less than five years at the time that such inspection is mandated under Article I.

#### **§ 137-10. Minimum standards.**

The following minimum standards shall apply to each inspection:

- A. All septic tanks and holding tanks must be within 250 gallons of the minimum volume requirement; minimum volume includes bedrooms, rooms used for sleeping, jacuzzi tubs and garbage grinders; and
- B. All holding tanks shall be equipped with a float switch with a 50% level alarm, a 100% high-level alarm located in a conspicuous place to indicate when pump out is necessary and a water shut off device. A copy of pump out records shall be submitted during or prior to the inspection.

**§ 137-11. OWTS failures.**

Failure of an existing OWTS occurs when the standards for lawful OWTS as set forth in Chapter 136 and this article are not met. While not exhaustive, examples of a failing system include the following:

- A. Lack of a pretreatment vessel (i.e., septic tank, aerobic treatment unit, ETU, etc.) prior to effluent discharge to any subsurface treatment (soil treatment area or absorption field);
- B. There is a discharge of effluent directly or indirectly to the ground's surface, with surface breakouts, ponding or saturated soils over the soil treatment area;
- C. Direct pipe surface discharge of grey water (into a dry well, over an embankment, into a roadside ditch or stream/tributary, etc.);
- D. A dye test results in the presence of dye on the ground surface or adjacent/downstream water body;
- E. There is a backup of sewage into the home, building, septic tank or facility as a result of a septic tank overload or malfunction, or a clogged soil treatment area;
- F. The septic tank requires pumping more than four times per year and/or sewage is observed flowing back into the septic tank from the secondary treatment area during pump out;
- G. Presence of a metal septic tank that is undersized and/or corroded;
- H. A cesspool, defined as a covered hole or pit used to receive untreated sewage from a house or building constructed as a primary source of wastewater disposal;
- I. A holding tank that discharges effluent to surrounding subsurface areas;
- J. No septic tank, seepage pit, enhanced treatment unit or soil treatment area (STA) shall be permitted to discharge to any natural outlet or adjoining property.

**§ 137-12. Mandatory pump-out.**

Each OWTS within the District must be pumped out no less than once every five years. Property owners within the District may individually undertake such effort. In addition, the Town of Queensbury may arrange for one or more septic haulers to undertake annual pump-outs of approximately 1/5 of the properties within the District. The cost of such services, if arranged throughout the District shall be a District expense. Otherwise, each property owner shall be independently responsible for such costs. In the event any new OWTS has been installed within the District, no additional inspection or pump-out shall be required within the five years directly following installation, provided the owner gives the Town sufficient information and documentation to identify the location of the OWTS and all its components, the type of system and the manner of its operation. Notwithstanding the above provision, pump-out of any new OWTS system as described above is nonetheless required where an inspection pursuant to Article I of this chapter is mandated.

**§ 137-13. Exemption.**

The requirements of §§ 137-9 and 137-12 shall not apply where the owner has submitted to the Town, on or before July 15 of the year in which such activity is to occur, an annual maintenance report demonstrating that such pump out or inspection has been performed and that the system is functioning properly.

**§ 137-14. Provisions of this chapter are to be read in harmony.**

It is the intention of the Town Board that Article I (Septic Inspection Upon Property Transfer) and Article II of this chapter are to be read in harmony wherever possible. However, in the event of a conflict between the two, the stricter provision or procedures shall apply. Where a property transfer within this District occurs and such property is also subject to the provisions of Article I, any inspection required as a result of that transfer of property must be performed in accordance with Article I regardless of the inspection cycle established pursuant to Article II and may result in multiple inspections being performed in the same five-year period.

**§ 137-15. Exemptions.**

ETUs that replace a conventional septic tank are exempt from pump-out requirements provided: 1) The owner provides the Town with a maintenance agreement spanning the following five years; and 2) The owner provides the Town with a written statement of a certified inspector of such ETU certifying that the ETU is functioning properly and as designed.

**§ 137-16. District administration.**

- A. The Town Board may, in its discretion, arrange for the administration of this District by contract with one or more persons or entities of its choosing; and/or by delegating such authority to one or more Departments and/or one or more employees of the Town. The Town Board may determine the scope of authority to be delegated to any such individuals or entities by resolution. Administration of this District may include undertaking efforts to investigate the types, location and status of existing septic systems within the District, determining the inspection cycle each property owner is to comply with, notifying property owners of necessary deadlines effecting their systems, making reports to the Town Board, sharing authority with Town Code Enforcement Officials to enforce the provisions of this chapter and, with the approval of the Town Board, to retain consultant services.
- B. The Town Board may also rely upon the assistance of any ad hoc committee that it may form to assist in activities necessary for proper administration of this District. However, a committee shall not have the authority to enforce any provisions of this chapter.
- C. All costs associated with administering this District and this chapter shall be an expense of the District.

**§ 137-17. Owner to undertake required repairs.**

Property owners are responsible to ensure that their OWTS or ETU is functioning

properly and are obligated to cause any necessary repairs to be completed within a timely manner. All repair costs are the expense of the owner or owners. In the event that an inspection reveals that all or a part of any OWTS or ETU does not meet or exceed applicable standards, the Code Enforcement Officer or other Town designated person or entity may direct that the necessary repairs be made and provide a reasonable amount of time to undertake such remedial action.

**§ 137-18. Costs incurred; violations; penalties for offense.**

- A. Any and all costs incurred by the District due to a District owner's failure to undertake the actions required by this chapter or as a result of the District addressing any violations thereof may be assessed against the real property and levied and collected in the same manner as the levy and collection of special ad valorem assessments through inclusion on the individual tax bills of the property at issue. Costs assessed in this way shall include all actual expenses incurred by the District on behalf of such owner and any application fees that would have been required had the owner complied with the provisions hereof.
- B. Appearance tickets/information. The Town Enforcement Officer, or such other person designated by the Town Board or authorized by law, upon receipt of a complaint or upon such person's own initiative, may commence proceedings in Queensbury Town Court by issuing an appearance ticket and/or filing an information or a summons and complaint with the Queensbury Town Court pursuant to New York law.
- C. Penalties. Violation of any provision of this article shall constitute a violation, punishable by an assessment of civil penalties of \$950 or a fine not exceeding \$950, or imprisonment for a term not exceeding 15 days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation.
- D. Civil actions and penalties. In addition to any other remedies provided by this article, the Town may commence a civil action in a court of competent jurisdiction to compel compliance with this article and/or to seek monetary penalties for violation of its provisions.

