

Town of Torrey Wastewater Law

Local Law Number 6 of 2014

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TOWN OF TORREY WASTEWATER LAW

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TOWN OF TORREY WASTEWATER LAW

Local Law Number 6 OF 2014

Be it enacted by the Town of Torrey as follows:

§ 1. Intent and Purpose

The purpose of this Law is to preserve and protect the water quality of Seneca Lake and all other surface and groundwater resources in the Town of Torrey. This Law is established to protect public health by ensuring adequate performance of existing wastewater treatment systems and by optimizing the effectiveness of new systems at removing nutrients and pathogens from wastewater.

§ 2. Applicability

- A. The provisions of this Law shall be in effect throughout the Town of Torrey and apply to all wastewater treatment systems not subject to continuous licensing by the New York State Department of Environmental Conservation (NYSDEC) or the New York State Department of Health (NYSDOH).
- B. New and replacement residential wastewater treatment systems shall be governed by Appendix 75A, a compilation of codes, rules and regulations of the State of New York Title 10, Department of Health, Chapter II, PART 75, *Standards for Individual Water Supply and Individual Sewage Treatment Systems*.
- C. New and replacement commercial or institutional wastewater treatment systems shall be governed according to the current New York State Department of Environmental Conservation guidelines *Standards for Waste Treatment Works--Institutional and Commercial Sewage Facilities*.

§ 3. Short Title

This Law shall be known as the “Town of Torrey Wastewater Law.”

§ 4. Validity

If any section, paragraph or provision of this Law shall be judged invalid or held unconstitutional, the same shall not affect the validity of this Law as a whole or any part or provision of this Law other than the part determined to be invalid or unconstitutional.

§ 5. Management and Implementation

The Town Board shall appoint a Watershed Inspector to administer this Law. The Wastewater Inspector shall be certified by attending training provided by NYS On-site Wastewater Treatment Training Network (OTN). In administering this law, the Watershed Inspector shall follow the policies and procedures defined in the *Town of Torrey Wastewater Treatment Systems Policies and Procedures*.

§ 6. Disposal of Wastewater

- A. Wastewater from any structure in an established sewer district shall be discharged directly into public wastewater disposal systems. If no public wastewater disposal is available, residential, commercial or institutional wastewater must be treated by a wastewater treatment system inspected and approved by the Town of Torrey Watershed Inspector.
- B. No wastewater shall be deposited or allowed to escape into any water body.
- C. No wastewater shall be deposited on or allowed to escape to the surface of the ground without approval from the DEC.

§ 7. Water Quality Protection Zones

Two zones shall be established within the Town of Torrey to protect water quality and public health and safety. Zone 1, or the "critical water protection zone," shall include all land within a distance of two hundred (200) feet of the Seneca Lake mean high water mark or of a NYSDEC Classified A, B or C Stream. Zone 2 shall include all other land in the Town of Torrey.

§ 8. Wastewater Systems Inspection

All wastewater treatment systems in the Town of Torrey not subject to continuing licensing per §2 shall be inspected by the Watershed Inspector as indicated below:

- A. Types of Inspection
 - 1. Basic Inspection. A basic wastewater treatment inspection will assess the condition and operation of all tanks and the surface condition of the soil absorption system, make an inventory of bedrooms and bedroom equivalents, appraise the internal plumbing, and interview the owner or owner's agent to determine customary use. (See *Town of Torrey Wastewater Treatment Systems Policies and Procedures* for specific inspection requirements.)
 - 2. Comprehensive Inspection. A comprehensive inspection will include a basic inspection plus an inspection of the seepage pit, drop box, and/or distribution box (See *Town of Torrey Wastewater Treatment Systems Policies and Procedures*, for specific inspection requirements.)

B. Inspection Schedule

1. Zone 1

All wastewater treatment systems in Zone 1 shall receive an initial basic inspection within five (5) years of the adoption of this Law and every five (5) years thereafter.

2. Zones 1 and 2

a) Real Property Transfer

All wastewater treatment systems within the Town of Torrey shall receive a comprehensive inspection before the closing of a real property transfer. Real property transfer inspections shall be valid for one (1) year.

b) New or Replacement Wastewater Treatment System

All new or replacement wastewater treatment systems require a comprehensive inspection during construction.

c) Increased Water Demand

A comprehensive inspection of the wastewater treatment system by the Watershed Inspector is required before adding a bedroom or otherwise increasing the water demand of a structure.

d) Repair of Wastewater Treatment System Components

A basic inspection of the wastewater treatment system by the Watershed Inspector is required before system components other than the soil absorption system are repaired or replaced. A comprehensive inspection is required for repairs to the soil absorption system.

e) Complaints or Problems

A basic or comprehensive inspection may be required to determine the cause of a wastewater treatment system malfunction which has elicited reports or complaints.

f) Holding Tanks

All holding tanks must be pumped and inspected annually.

§ 9. Permits

A. Wastewater Treatment System Construction Permit

1. A Wastewater Treatment System Construction Permit is required for construction of a new or replacement wastewater treatment system. The permit shall be valid for one (1) year from the date of issue.
2. The permit fee, as established by the Town of Torrey Fees and Fines Schedule, must be paid before a Wastewater Treatment System Construction Permit is issued.
3. Permits will be issued only for wastewater treatment systems designed by a NYS licensed engineer, as required by NYS law. The deep hole and percolation tests that are the basis for the design must be observed by the Watershed Inspector
4. Permit applications must be accompanied by copies of the final system design, the original of which has been stamped and signed by the engineer and Watershed Inspector.

B. Repair Permit

A failed inspection report issued after a basic or comprehensive inspection resulting in a Notice of Noncompliance (§10) or a Notice of Violation (§11) shall serve as a permit to repair or replace system components other than soil absorption systems. The permit is good for one (1) year from the date of issue.

C. Permit to Operate

1. An inspection report completed by the Watershed Inspector certifying that a wastewater treatment system appears to be operating properly under the current use load shall constitute a Permit to Operate.
2. No new, replacement or repaired wastewater treatment system shall be placed in operation until a Permit to Operate has been issued by the Watershed Inspector.
3. A Permit to Operate new or replacement wastewater treatment systems requires submission by the engineer of “as built” to the Watershed Inspector.
4. No guarantee is made or implied by the issuance of a Permit to Operate or a passing inspection report as to the future operation or condition of a wastewater treatment system.
5. A Permit to Operate may be revoked if a public health hazard is identified or if system components have deteriorated to the point that the system no longer functions properly.

§ 10. Property Owner Responsibilities

A. Basic and Comprehensive Inspections

Upon receipt of an inspection notification from the Watershed Inspector, the property owner shall:

1. Facilitate the completion of a water treatment system inspection by the Watershed Inspector within the time frame stated in the notification.
2. Retain the services of a NYS DEC licensed waste haul contractor and request that the contractor contact the Watershed Inspector to set an appointment to observe the pump-out of all septic tanks, holding tanks and septic tank alternatives and to inspect the wastewater treatment system.
3. Uncover septic tanks, holding tanks, pump tanks, septic tank alternatives, distribution boxes, drop boxes and seepage pits as requested in the inspection notification.
4. Provide information to the Watershed Inspector concerning the wastewater treatment system type, capacity, location, usage, age and maintenance.
5. Allow entry of the Watershed Inspector to assess water demand and internal plumbing of the structure or submit a completed *Homeowner's Wastewater Treatment System Assessment Form*.

B. Real Property Transfer Inspections

1. The property owner shall:
 - a. Comply with all requirements of § 10.A.
 - b. Schedule a Comprehensive Inspection by the Watershed Inspector at least ten (10) days before the closing date and pay the fee as prescribed by the Town of Torrey Fees and Fines Schedule.
2. Before the transfer of property with an outstanding Notice of Nonconformance or Notice of Violation the property owner must:
 - bring the wastewater treatment system into compliance, or
 - present a letter of intent or a contract to repair from a contractor acceptable to the Watershed Inspector specifying the plan of work and the time frame within which the work will be completed, or
 - obtain a Wastewater Treatment System Construction Permit.

C. Construction or Repair Inspection

1. The Watershed Inspector shall be notified a minimum of forty-eight (48) hours before construction begins and forty-eight (48) hours before a requested inspection.
2. No element of the system shall be covered until inspected and approved by the engineer and the Watershed Inspector.

§ 11. Notice of Noncompliance

If upon completion of a wastewater treatment system inspection, the Watershed Inspector determines that any part of a wastewater treatment system does not comply with the requirements of this Law, but the system is otherwise functioning properly under the current use load and presents no risk to the public health or safety, a *Notice of Noncompliance* shall be delivered by hand or by certified mail to the property owner. Such notice shall specify the components that do not comply with the requirements of this Law and the action that is necessary to correct the noncompliance. The notice shall also advise the property owner that use of the system may continue under the current use load. However, the system must be brought into compliance with this Law before a property transfer.

§ 12. Notice of Violation

A *Notice of Violation* shall be delivered by hand or by certified mail to the property owner if the property owner fails to schedule a wastewater treatment system inspection within the mandated time or if the Watershed Inspector determines upon completion of an inspection that a component of the system does not comply with this law and that such noncompliance may imperil the public health and safety. Such notice shall specify:

- the specific section of the law being violated,
- the component(s) of the system that are not in compliance with the requirements of this Law,
- the action that is necessary to correct the noncompliance and
- the time frame within which the corrective action must be completed.

For failure to schedule a required inspection or for a system failure that does not pose an imminent risk to public health and safety, the Watershed Inspector may prescribe a reasonable completion date for compliance or for repair not to exceed one-hundred-eighty (180) days. For a system failure that does pose an imminent risk, the Watershed Inspector shall require that repairs be completed within seventy two (72) hours or that use of the wastewater treatment system cease until repairs are completed.

§ 13 Appearance Tickets

The Watershed Inspector is authorized to issue Appearance Tickets in order to enforce the provisions of this law.

§ 14. Penalties and Fines

- A. Failure to comply with a Notice of Violation shall be punishable by a fine as stated in the Torrey Fees and Fines Schedule and/or imprisonment not to exceed fifteen (15) days per day of noncompliance. Each day of noncompliance shall be considered a separate offense and shall be subject to additional penalty under the Torrey Fees and Fines Schedule unless the violation is actively being remedied pursuant to a plan acceptable to the Watershed Inspector. The imposition of any fine or penalty shall not excuse a violation nor permit its continuance.
- B. If the Watershed Inspector determines that the risk to public health or safety is substantial and ongoing or the violation is blatant and/or intentional, the Watershed Inspector may seek an injunction or other relief including property condemnation. Should the Town of Torrey seek a legal remedy to enforce provisions of this Law, the property owner or other responsible party shall be liable for all attorney fees and costs incurred by the Town of Torrey in bringing the enforcement proceedings. The Town of Torrey may take other lawful action as necessary to remedy a violation.
- C. Damage caused to persons or property through a violation of this Law must be remedied by the party responsible for that damage. Should the responsible party fail to take timely corrective action and the Watershed Inspector determines that there is imminent danger to public health or safety, the Town of Torrey may take the necessary action to remedy the problem and in that event shall seek recovery of all costs from the responsible party.
- D. If work on a wastewater system has been begun without a permit, and the system has not been covered, the work must be inspected and a “Permit Issued after Construction Has Started” obtained before work may continue.
- E. If work on a wastewater system has been begun without a permit, and the system has been covered, the system must be uncovered at the owner’s expense, the work must be inspected and a “Permit Issued after Construction Has Started” obtained before work may continue.

§ 15. Appeals

- A. The Town Board shall hear and decide appeals of any order, requirement, decision or determination made by the Watershed Inspector except those that pose an imminent risk to public health and safety. An appeal may be made by any aggrieved person and must be filed within thirty (30) days of the Watershed Inspector's decision.
- B. All appeals to the Town Board shall be in writing on forms obtained from the Watershed Inspector. Every appeal shall refer to the specific provision of this Law or policy that is in contention, the interpretation that is claimed and/or the reasons the Watershed Inspector's decision should be reversed or modified.
- C. All appeals must be submitted to the Town Clerk who will stamp and date the appeal as being formally submitted to the Town.
- D. The Watershed Inspector shall transmit all supporting documentation to the Town Board within five (5) business days of submission of an appeal.
- E. The Town Board shall hold a hearing on an within thirty (30) days from receipt of the appeal application. The appellant, or the appellant's representative, shall be notified of the hearing date and must attend the hearing in order to provide additional information to the Board as it may require. The Watershed Inspector shall attend the hearing in order to provide additional information to the Board as needed.
- F. Unless additional information is required to make a decision, the Town Board shall render a decision immediately following the hearing on the appeal. If more information or additional expertise is needed to make a decision, a second appeal hearing shall be scheduled within thirty (30) days.
- G. The Town Clerk shall notify the applicant in writing of the decision on the appeal of the Town Board within five (5) business days.

§ 16. Definitions

AS BUILTS – revised drawings that reflect all changes made in the construction process showing the exact dimensions, geometry and location of all elements of the completed work

BEDROOM – any room or space used or intended to be used for sleeping purposes. (The final decision regarding whether a room shall be deemed a bedroom for system design purposes shall be by the Watershed Inspector.)

DISTANCE TO DETERMINE ZONE 1 – the shortest horizontal measure from any component of the wastewater system to the high water mark of Seneca Lake or the edge of a DEC classified A, B or C stream.

GROUNDWATER – subsurface water occupying the saturation zone from which wells and springs are fed

HOLDING TANK – a large container in which liquids are temporarily held

PUMP TANK – a tank that contains a pump

SEPTIC TANK – a tank, typically underground, in which sewage is collected and allowed to decompose through bacterial activity

SEWAGE – the combination of human and household waste with water, including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the waste carried from any other fixture, equipment or machine

SOIL ABSORPTION SYSTEM (SAS) – an area to which wastewater is distributed for infiltration into the soil

SOLIDS – any non-liquid sewage as well as dirt, gravel and rocks

WASTEWATER – liquids containing sewage, gray water or other contamination of any kind in or from the drainage system or sewer of a domestic dwelling or any other structure used for commercial, recreational, agricultural, institutional, or industrial purposes

WASTEWATER TREATMENT SYSTEM – the collective components, pieces of equipment, or installation that receive, manage, or treat wastewater

WATER DEMAND – theoretical water usage based on the building's design and the requirements of Appendix 75A

WATERSHED INSPECTOR – the individual appointed by the Town Board responsible for administering this Law