

VILLAGE OF SPECULATOR
LOCAL LAW 1 of 2025 PROVIDING REGULATION, MANDATORY
INSPECTIONS OF AND REPLACEMENT OF CERTAIN ONSITE
WASTEWATER TREATMENT SYSTEMS (OWTS)

BE IT ENACTED BY BOARD OF TRUSTEES OF THE VILLAGE OF SPECULATOR AS FOLLOWS:

ARTICLE 1. Local Law 1 of 2025 is hereby enacted as follows:

Title.

This Law shall be known as "Mandatory Septic Inspection Program."

§1. STATUTORY AUTHORITY.

This enactment is pursuant to Article 7 of the New York State Village Law, Article 3 of the Public Health Law and by the Municipal Home Rule Law of the State of New York.

§2. FINDINGS AND INTENT.

The intent of this Local Law is to better protect water bodies from exposure to excess nutrients and pollutants by better ensuring that onsite wastewater treatments systems proximate to such water bodies are functioning properly. The Village of Speculator 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 Village and, in some limited cases, even rendering drinking water unsafe.

§3. COMPLIANCE REQUIRED.

Applicability/Wastewater Inspection Program Area. This Local Law shall apply to all real property located within the overlay district created by Local Law 4 of 2023. Therefore, this law shall apply to all lands which are partially or wholly within 250 feet of the mean-high water mark of Lake Pleasant, Lewey Lake and Whitaker Lake. Overlay district maps indicating these areas of Lake Pleasant, Whitaker Lake and Lewey Lake are included in the attached Appendices A, B and C.

§4. PROHIBITIONS.

No person shall own or operate an OWTS within 250 feet of the mean-high water mark of Lake Pleasant, Lewey Lake and Whitaker Lake that is failing as set forth more fully in this Local Law.

§5. SYSTEMS EXEMPT FROM THE WASTEWATER TREATMENT SYSTEM INSPECTION PROGRAM.

- A. The following properties and wastewater treatment systems are exempt from the Wastewater Treatment System Inspection Program in this Local Law:
 - 1. Any property located inside the Wastewater Inspection Program Area, but which is serviced by a tank and any absorption area located entirely outside the Wastewater Inspection Program Area (overlay district).
 - 2. Any property which is connected to and serviced by the Village of Speculator's Wastewater Treatment System.
- B. Persons claiming an exemption under this section shall bear the burden of demonstrating that all the requirements for an exemption are met.

§6. MANDATORY SEPTIC INSPECTION.

- A. Inspections under this Local Law shall be required once every ten (10) years.
- B. For all real property subject to this Local Law utilizing an on-site wastewater treatment system (OWTS), the OWTS must be inspected by a NYS Professional Engineer or an individual that is properly authorized and, certified by the State of New York (Agent) to undertake septic inspections. The inspection shall include a septic tank pump out by a New State Department of Environmental Conservation (NYSDEC) registered septic hauler and all seepage pits and septic drainfields, 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. A report of such an inspection must be provided to the Code Enforcement Officer and must contain sufficient detail so that the Code Enforcement Officer can confirm that the inspection requirements of this Local Law 1 have been complied with. The property owner shall retain all qualified inspectors. Mandatory septic inspection work sheets are defined in §6D. The septic system inspections will be either, pass or fail.
- C. Categories of Outcomes- The outcome of a septic inspection is divided into two distinct categories under this program:
 - 1. Pass; or Fail.
 - 2. Each of these categories relates to how the system is both designed and functioning Failures and systems that are substandard are defined in Section Six, D:
 - 3. Upon the receipt of a satisfactory inspection report ("pass") and in accordance with the protocol set forth in §6D below, the Code Enforcement Officer shall issue to the property, a letter determination confirming either that the inspection report demonstrates compliance with or unlawful deviation from the provisions of this Local law.

- D. The OWTS inspection shall utilize the Village of Speculator Septic Inspection Request Form (Appendix D), and the OWTS Inspection Report (Appendix E), all of which shall be available in the Office of the Village Code Enforcement Officer. All complete System Inspection Report Forms will be filed with the Village's Code Enforcement Officer. The following minimum standards shall apply to each inspection:
1. 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;
 2. Septic tanks shall be located in a conspicuous place to indicate when pump out is necessary. A copy of the pump out records shall be provided with the inspection report; and
 3. If the OWTS is determined to be failing or inadequate, a written notice of violation may be issued. An approved compliance agreement to correct the violation would then need to be obtained from the Village Code Enforcement Officer.
- E. Temporary Exemption. The following property owners shall be exempt from the provisions of this Local Law in the following situations and pursuant to the terms identified below:
1. A failure of the septic system is found, but due to winter and freezing conditions, the repair to an existing OWTS cannot occur and/or a new OWTS cannot be installed. In order to qualify for this temporary exemption, a notarized affidavit from the property owner to complete the installation or repair of the septic system within six months of the date of inspection, or June 1, whichever comes first, must be filed with the Village Code Enforcement Officer. A check payable to the Village of Speculator in the amount of one hundred (\$100.00) will be held in a non-interest-bearing account and shall be released upon the completion of the repair or installation of a new septic system and a satisfactory OWTS inspection by the Village's Code Enforcement Officer.
 2. There is a record of the property's OWTS having passed inspection within the last ten (10) years, or a new septic system has been installed in the last ten (10) years.
 3. Failure to complete the inspection, obtain the permit or complete all repairs/installations identified in the preceding subsections within the time provided or any subsequent deadline established by the Village of Code Enforcement Officer will result in forfeiture of any monies held in escrow and the Village may use such funds toward abating the conditions caused by violations of this Local Law.
- F. Failure of OWTS. Failure of an existing OWTS occurs when the standards for lawful OWTS as set forth in the Department of Health Regulations 10 NYCRR Part 75, including 10 NYCRR Appendix 75-A 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, 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 or absorption field;
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 waterbody;
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 or absorption field;
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. The release of untreated or partially treated wastewater directly or indirectly to the ground surface or to surface waters.
11. Lack of a septic tank before discharging wastewater into the ground, as seen in cesspools. Lack of an underground treatment area when not using a holding tank. Sewage backup into the home, building, septic tank, or distribution box, including effluent flowing back during pump-out.
12. The need for a septic tank pump-out more than four times a year.
13. If a system fails inspection, the Code Enforcement Officer allows three (3) years for compliance, or sixty (60) days for immediate action in cases of imminent hazards.
14. Systems that pass inspection are considered compliant for ten (10) years from the inspection date.
15. The Code Enforcement Officer administers the inspection of wastewater systems; however, review and permitting of all new systems remains the purview of the local review authority (e.g., village, town, county, NYSDOH).

§7. DESIGN, REPAIR AND REPLACEMENT OF OWTS.

The design, repair, or replacement of any new OWTS shall comply with the New York State Department of Health (NYSDOH) Residential OWTS System Design Handbook. The design,

repair, or replacement of any new OWTS shall be under the supervision of a licensed design professional (Professional Engineer, or a Registered Architect). All other applicable regulations shall be adhered to as required by the New State Department of Environmental Conservation (NYSDEC) and the Adirondack Park Agency (APA).

§8. GRANDFATHERING CLAUSE.

Definition- A **grandfather clause**, also known as **grandfather policy**, **grandfathering**, or being **grandfathered in**, is a provision in which an old rule continues to apply to some existing situations while a new rule will apply to all future cases. Those exempt from the new rule are said to have grandfather rights or acquired rights, or to have been grandfathered in. Frequently, the exemption is limited, as it may extend for a set time, or it may be lost under certain circumstances; for example, a grandfathered OWTS might be exempt from new, more restrictive pollution laws, but the exception may be revoked, and the new rules would apply if the OWTS were expanded. Often, such a provision is used as a compromise or out of practicality, to allow new rules to be enacted without upsetting a well-established logistical or political situation.

All existing OWTS's, with the exception of cesspools, are grandfathered to the date of construction. All failed components must be replaced with a new component (examples- septic tank failure- replace septic tank at same volume). Septic fields- replace failed fields with new septic system components) etc.

Failed components must be replaced within 3-years of the implementation of Local Law 1 of 2025.

Cesspools are required to have new septic system installed within 5-years of the implementation of Local Law 1 of 2025.

§9. VARIANCES.

STANDARDS – An owner who experiences practical difficulty or unnecessary hardship because of the literal interpretation of the provisions of the Village of Speculatory Local Law No. 1 may request a hearing by the Code Enforcement Officer and Board of Trustees. The Code Enforcement Officer and Board of Trustees may recommend a variance from the requirements of this Local Law 1, and if the Code Enforcement Officer and Board of Trustees finds that the essential purpose of these regulations, namely the protection of public health and water quality, will be accomplished even if the variance is created. The Code Enforcement Officer and Board of Trustees Variance Committee shall consider the following factors and make applicable findings:

- A. Whether the use or activity to be authorized by the waiver or variance is in harmony with the purpose and intent of this Local Law.
- B. 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.

- C. Whether the hardship or difficulty can be alleviated by some other method that is feasible for the applicant to pursue.
- D. Whether the variance requested is the minimum variance necessary to afford relief. To this end, the Variance Committee may recommend a lesser variance than that applied for.
- E. Whether the hardship or difficulty has been created by the applicant.

§10. APPEALS.

Appeals from the determinations of the Code Enforcement Officer under Section 6(C) of this Law by any person aggrieved by such determination may be made to the Village Board of Trustees of the Village of Speculator in its capacity as the local Board of Health within 60 days of the issuance of such determination.

- A. Forms for such Appeals will be made available to the public in the office of the Village Code Enforcement Officer. Such forms must be properly filled out, signed, and submitted to the office of the Village Code Enforcement Officer with payment of the applicable fee as established by the Village Board.
- B. In evaluating appeals from determinations of the Village Code Enforcement Officer, the Village Board may consider whatever information it deems relevant, including any evidence or information submitted by the applicant and any information obtained from the Village Code Enforcement Officer or any Village engineering consultant. The Village Board may seek additional information from the applicant and/or the Code Enforcement Officer to aid it in reaching its determination.
- C. The Village Board may uphold the Code Enforcement Officer's determination, overturn the Code Enforcement Officer's determination, or modify the Code Enforcement Officer's determination, including modifying any curative steps outlined by the Code Enforcement Officer. In addition, if the Village Board finds that the inspection report at issue demonstrated compliance with this Local Law, such a finding will result in:
 - 1. The owner is not obliged to cause a subsequent inspection to be made until the expiration of ten years, however this provision does not modify any inspection requirement that may exist in any other State, or Village Law, including Local Law 1 of 2025; and
 - 2. Nullifying and rendering unenforceable any requirements placed on the owner as a result of an initial finding that the inspection "failed."
- D. The above remedies shall be exhausted by an aggrieved property owner or applicant prior to any judicial review.

§11. NOTICE OF VIOLATION; PENALTIES FOR OFFENSES.

If a property owner fails to complete an inspection required by this Local Law or fails to comply with any other provision of this Local Law, a Notice of Violation may be issued by the Village Code Enforcement Officer mandating compliance with the inspection requirements and such Official or any designee of such Official shall have the authority to enforce the requirements of this Local Law. An offense against any provision of this Local Law shall constitute an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon Courts and judicial officers, violations of this Local Law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§12 SCHEDULE FOR INSPECTIONS.

- A. **Speculator**- From Shuttleworth Road along South Shore Road in the Village of Speculator to the Lake Pleasant boundary line. May 15, 2026, to October 15, 2026.
- B. **Speculator**- Along Route 8 from 2750 State Route 8 to 119 Green Acres Lane. May 15, 2027, to October 15, 2027.
- C. **Whitaker Lake**- 109 Whitaker Lake Road to 188 Whitaker Lake (South and North). May 15, 2027, to October 15, 2027.
- D. **Lewey Lake**- 110 Snowy Mountain Lodge Road to 132 Snowy Mountain Lodge Road and 4023 State Route 30 to 4043 State Route 30. May 15, 2027, to October 15, 2027.