

Chapter 92

SEWERS

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

GENERAL REFERENCES

Land use — See Ch. 77.
Site plan review — See Ch. 95.
Solid waste — See Ch. 103.
Subdivision of land — See Ch. 108.

ARTICLE I

On-Site Individual Wastewater Treatment [Adopted 2-12-2001 by L.L. No. 1-2001¹]

§ 92-1. Title, applicability, purpose and authority.

- A. Title. This article shall be known as the "On-Site Individual Wastewater Treatment System Law of the Town of Canadice."
- B. Applicability. This article shall govern the treatment of sewage by regulating all on-site individual wastewater treatment systems (hereinafter referred to as a "wastewater treatment system").
- C. Purpose. The purpose of this article is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of its inhabitants, by regulating wastewater treatment systems so that human sewage and other wastes are disposed of in a manner that will not create a health hazard, adversely affect the environment, create a nuisance, or impair the enjoyment or use of property.
- D. Authority. Enactment of this article is pursuant to Article 2 of the Municipal Home Rule Law and Article 3 of the Public Health Law.

§ 92-2. Definitions.

In addition to the definitions contained in the New York State Public Health Law and Uniform Fire Prevention and Building Code, which are incorporated herein by reference, the following words and terms shall be defined as follows:

ADEQUATELY FUNCTIONING — A wastewater treatment system inspected pursuant to § 92-5B of this article that is determined by the Town of Canadice as not posing a public health threat by virtue of aboveground seepage or contamination of surface water or groundwater. For the purpose of this article, an adequately functioning system shall always

¹. Editor's Note: This local law also superseded former Ch. 92, Sewage Disposal, adopted 11-24-1980 by L.L. No. 1-1980, as amended.

include a watertight vessel.

AUTHORITY HAVING JURISDICTION — The Code Enforcement Officer, or other official(s) designated by the Town of Canadice having the responsibility to enforce the provisions of this article.

CHANGE OF USE — A use of land with an associated building and wastewater treatment system that is modified so as to likely cause an increase in hydraulic loading (e.g., change from an existing commercial use to residential use; change of an existing residential use to commercial use; change of a commercial use to a different type of commercial use).

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.

MINOR ALTERATIONS — Routine maintenance and repairs to the wastewater treatment system, including but not limited to the following: replacement of septic tank covers 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.

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 Town of Canadice Code Enforcement Officer.

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 garbage disposal or the water-carried waste from any fixture, equipment or machine.

WATERCOURSE — Every spring, pond, stream or channel which flows or may flow into any lake in the Town of Canadice and every spring, pond, stream or channel which flows or may flow therefrom.

§ 92-3. General regulations and requirements.

A. Prohibitions.

- (1) It shall be unlawful to install, construct, alter, replace, enlarge, extend, or otherwise modify any wastewater treatment system unless a wastewater treatment permit is issued by the Town of Canadice Code Enforcement Officer, except as specifically exempted in § 92-3D of this article.
- (2) It shall be unlawful to change the use of real property, or expand a building or

dwelling, including its use, by greater than 50% of hydraulic loading, without an inspection of the wastewater treatment system by the Town of Canadice Code Enforcement Officer, pursuant to §§ 92-5A and B of this article.

- (3) It shall be unlawful to use or maintain any wastewater treatment system that is not adequately functioning.
- (4) It shall be unlawful to discharge anything but sewage into a wastewater treatment system. Surface and subsurface water including roof, cellar, foundation and storm drainage shall not be discharged into the wastewater treatment system and shall be disposed of so as to in no way affect the proper functioning of the system.

B. Design standards for wastewater treatment systems: new systems.

- (1) Individual household systems. Any wastewater treatment system for new individual household construction shall be designed and built according to the requirements of this article and the requirements, as they may from time to time be amended, of the New York State Department of Health (NYSDOH) standards for sewage disposal for individual household systems. Those design requirements are found in Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR).
- (2) Intermediate-sized sewerage systems. Any wastewater treatment system for new commercial or institutional construction shall be designed and built according to the requirements of this article and the requirements, as may from time to time be amended, of the New York State Department of Environmental Conservation (NYSDEC) standards for sewage disposal for intermediate-sized sewerage facilities. Those design requirements are found in NYSDEC manual "Design Standards for Wastewater Treatment Works: Intermediate-Sized Sewerage Facilities."

C. Design standards for wastewater treatment systems: existing systems.

- (1) Individual household systems. Any installation, construction, alteration, replacement, enlargement, extension, repair, or other modification of an existing on-site individual household wastewater treatment system shall be designed and built according to the requirements of this article and the requirements, as they may from time to time be amended, of the NYSDOH standards for sewage disposal for individual household systems. Those design requirements are found in Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR).
- (2) Intermediate-sized sewerage systems. Any installation, construction, alteration, replacement, enlargement, extension, repair, or other modification of an existing intermediate-sized sewerage system shall be designed and built according to the requirements of this article and the requirements, as may from time to time be amended, of the NYSDEC standards for sewage disposal for intermediate-sized sewerage facilities. Those design requirements are found in NYSDEC manual "Design Standards for Wastewater Treatment Works: Intermediate-Sized

Sewerage Facilities."

- D. Exemptions.
- (1) Minor alterations to wastewater treatment systems shall not require a wastewater treatment permit, provided such repairs are made with like or similar materials so as to replace existing conditions in need of repair, and are done in a safe and sanitary manner.
 - (2) The design standards found in § 92-3C of this article shall not apply to existing wastewater treatment systems legally installed, repaired or approved by the Town of Canadice prior to the date of adoption of this article and after the dates identified in Subsections D(2)(a) and (b) identified below, or those systems determined by the Town of Canadice to be adequately functioning:
 - (a) Individual household wastewater treatment systems legally installed or repaired prior to December 1, 1990.
 - (b) Intermediate-sized wastewater treatment systems legally installed or repaired prior to January 1, 1988.
- E. Site limitations. On sites with topographic, physiographic or other limitations, Ontario County Soil and Water Conservation District/design professional shall utilize current technology and design methods to recommend appropriate remedies for failed or improperly functioning systems, provided that applicable state standards, to the greatest extent possible, are complied with. In considering site limitations, the Town of Canadice Code Enforcement Officer shall take the following into consideration:
- (1) Distance separations to drinking water supplies and watercourses;
 - (2) The imminent health hazards resulting from a currently failed system;
 - (3) Existing lot line setbacks and area requirements as related to individual properties; and
 - (4) The extent to which the limitations are self-created.
- F. Maintenance and protection. Wastewater treatment systems shall be maintained in good working order. There shall be no activities or conditions permitted which would interfere with the proper operation of wastewater treatment systems. It is specifically prohibited to construct or place buildings, to install paving, to plant trees or shrubs, to regrade or place fill, to allow crossing by vehicles, to install aboveground pools, or to install driveways or parking areas over sanitary disposal fields.
- G. State or other agency approvals. In addition to approvals required herein, a review and approval by the New York State Department of Health (NYSDOH) or the New York State Department of Environmental Conservation (NYSDEC), if appropriate, shall be required for the following conditions:
- (1) Any realty subdivision as defined by Article 11, Title II, of the New York State Public Health Law or Article 17, Title 15, of the New York State Environmental Conservation Law;

- (2) Any alternative system as defined by Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR);
 - (3) Any facility required to be permitted by the NYSDOH; and
 - (4) Any on-site individual wastewater treatment system or other system with effluent in excess of 1,000 gallons per day.
- H. Use of design professionals and the Ontario County Soil and Water Conservation District.
- (1) The Town of Canadice shall have the right to require that the property owner retain the services of a design professional to conduct site and soil appraisals (percolation tests and deep holes) and to design and certify that the wastewater treatment system meets the requirements of this article and the standards of applicable state laws.
 - (2) The Town of Canadice shall have the right to require that the property owner retain the services of the Ontario County Soil and Water Conservation District through its Uniform Inspection Procedures Program for site and soil appraisals and inspections performed pursuant to § 92-5A of this article.
 - (3) Wastewater treatment systems that are defined as an alternative system pursuant to 10 NYCRR Appendix 75-A shall be certified by a design professional.
- I. Access.
- (1) The Town of Canadice Code Enforcement Officer and/or Ontario County Soil and Water Conservation District shall be permitted by the property owner to make a physical inspection of the lands and premises for which a wastewater treatment system permit or inspection has been requested, in order to determine that all of the requirements of this article have been complied with.
 - (2) The Canadice Code Enforcement Officer and/or Ontario County Soil and Water Conservation District, upon complaint or show of cause, shall be permitted by the property owner to make a physical inspection of the lands and premises for which a wastewater treatment system is believed to be a cause or potential cause of pollution or health hazard.

§ 92-4. Requirements for new wastewater treatment systems.

- A. Application material. Applications for wastewater treatment system permits shall be by the property owner or a duly authorized agent, accompanied by the appropriate fee, to the Town of Canadice, which shall include the following information:
- (1) The name, address and telephone number of the applicant;
 - (2) Specific location of the property on which the wastewater treatment system is located or proposed, including the tax map number for said property;
 - (3) A sketch plan on a tape location map or survey map of the premises on which the wastewater treatment system is located or proposed, showing the location of

wells, springs and other sources of water supply, and the location of all watercourses on the premises;

- (a) Distance and separation on conforming lots, as per Canadice Code, Chapter 77, Land Use: No leach field shall be constructed nearer than:
 - [1] Eighty feet to the highway line of any public or private road.
 - [2] Eighty feet to any side or rear lot boundary.
 - [3] One hundred feet to any watercourse, lake, pond, or well.
- (b) All construction shall be in conformance with the current revision of the New York State standards as contained in the New York State Department of Health "Waste Treatment Handbook," as amended.
- (4) Evidence to demonstrate that there is no public sewer available into which the sewage can be discharged or that it is impractical to discharge sewage into a community sewerage system;
- (5) Documentation of substantiating data relating to site conditions, percolation tests, deep hole data, and topography of land; and
- (6) The Town of Canadice and/or Ontario County Soil and Water Conservation District may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in the application.

B. Administrative review.

- (1) The Town of Canadice Code Enforcement Officer shall not issue a wastewater treatment system permit unless all pertinent site data has been submitted, verified and certified as required by this article, all permit fees have been paid and that the wastewater treatment system complies with all specifications of state and local laws.
- (2) The Town of Canadice Code Enforcement Officer may disapprove an application if it is determined that any of the following requirements have not been met:
 - (a) The wastewater treatment system, as proposed, will not conform to the requirements of state and local laws;
 - (b) The applicant has failed to supply all the data necessary to make a determination as to whether or not such wastewater treatment system conforms to state and local laws; and
 - (c) The applicant has failed to pay all necessary fees.
- (3) When the Town of Canadice shall deny the application for a wastewater treatment permit, within seven working days after taking such action, the Town of Canadice shall furnish the applicant with a written notice of denial setting forth in detail the reason for such action.
- (4) No certificate of occupancy shall be issued and no persons shall occupy any

building unless the wastewater treatment system has been approved in accordance with the provisions of this article.

- C. Inspection certifications.
 - (1) Installation of the wastewater treatment system shall be under the direct supervision of the Town of Canadice Code Enforcement Officer.
 - (2) The applicant shall be prohibited from covering any component of the system without proper authorization. Any change of construction approved by the Town of Canadice shall be noted on the original drawings before the system is backfilled. As-built plans shall be provided to the Town of Canadice Code Enforcement Officer.
 - (3) The Town of Canadice Code Enforcement Officer may, by written notice, order all work stopped on any wastewater treatment system which is in violation of this article.
- D. Fees. The fees for any permit or inspection performed pursuant to this article shall be determined from time to time by the Canadice Town Board.

§ 92-5. Requirements for existing wastewater treatment systems.

- A. Circumstances requiring inspection of existing systems. The Town of Canadice Code Enforcement Officer/Ontario County Soil and Water Conservation District shall at the property owners' request conduct an on-site inspection of an existing wastewater treatment system as follows:
 - (1) Prior to a change of use. The property owner shall arrange for a wastewater treatment system inspection before any change of use is undertaken. The Town of Canadice Code Enforcement Officer/Ontario County Soil and Water Conservation District shall determine whether the change represents an increased hydraulic loading to the system. In instances where a site plan approval, special use permit, or variance is required the Town of Canadice Code Enforcement Officer shall incorporate the wastewater treatment system inspection report into the review process of the appropriate Planning Board or Board of Appeals.
 - (2) Expansion of hydraulic loading greater than 50%. The owner of the property shall arrange for a wastewater treatment system inspection as an integral part of the building permit application process. The Town of Canadice Code Enforcement Officer shall determine whether expansion of the building or dwelling, including its use, represents an increased hydraulic loading to the system. For the purpose of this article, an existing wastewater treatment system shall be defined as an accessory structure and as such subject to regulation pursuant to Part 1230 of Subchapter E, Conversions, Alterations and Repairs to Existing Buildings, of the New York State Uniform Fire Prevention and Building Code.
- B. Inspection procedure. All existing on-site wastewater treatment systems requiring an inspection pursuant to this article shall be performed by the Ontario County Soil and Water Conservation District or a licensed professional in accordance with the

specifications established as follows:

- (1) The septic tank, inspection ports, distribution boxes, or other distribution devices shall be uncovered and accessible to the inspector.
- (2) Sanitary disposal fields shall be staked out or otherwise identified by general area of location.
- (3) The septic tank shall be pumped at the expense of the property owner, in order to ensure that the tank is not leaking, and that the inlet and outlet baffles are in place and properly functioning. Drop and distribution boxes shall be checked for blockage and function.
- (4) The Town of Canadice Code Enforcement Officer and/or Ontario County Soil and Water Conservation District or a licensed professional shall visually inspect buildings on the property noting the number of bedrooms, the layout and location of all water-using fixtures and plumbing, including but not limited to faucets, sinks, toilets, drains, overflows, laundry equipment, floor drains, sump pumps, water softeners, and related systems that may impose an improper or potential adverse hydraulic loading on the disposal field.
- (5) Verify connection of all drains to an appropriate disposal system.
- (6) All outside areas, to include nearby lawns, slopes, hillsides, ditches and watercourses, swales, and the shoreline of ponds, lakes and wetlands shall be observed for aboveground seepage and to note the quantity and general quality of surface water where it occurs.
- (7) Conduct dye testing, and other methods as may be necessary, to determine system function.

C. Report of findings.

- (1) Upon completion of the inspection, documentation of all procedures along with a report of findings shall be forwarded to the owner as well as to the Town of Canadice Code Enforcement Officer.
- (2) The report of findings shall contain, at a minimum, the location, address, name of owner, representative present, dates of testing/inspection, procedures used, observations and sketches showing fixture, drain and system layout to adequately document the wastewater treatment system inspection.

§ 92-5.1. Requirements for wastewater treatment system requiring a service contract.

[Added 4-12-2004 by L.L. No. 1-2004]

- A. Any wastewater treatment system requiring a service contract by the New York Department of Health must have a valid service contract on file at all times.
- B. Service contracts are to be on file with the Code Enforcement Officer.
- C. The Code Enforcement Officer shall provide a reminder notice to the landowner 30 days prior to the contract expiration.

- D. If a service contract lapses, one notification will be sent to the landowner, allowing 10 business days to renew the service contract.
- E. If the condition is not corrected after official notification, a penalty fine of \$500 will be levied and the Town will take out a service contract. If the contract cost and the fine are not paid within 30 days, the costs will be added to the landowner's tax bill.

§ 92-6. Compliance; reporting of deficiencies; corrections.

- A. Upon discovery of a wastewater treatment system which is not adequately functioning or determined to have been illegally installed, the Town of Canadice Code Enforcement Officer shall immediately notify the property owner in writing of the failure or unacceptable condition. It shall be the responsibility of the property owner to forward notice of such report to other involved or interested parties. As part of the report, the Town of Canadice Code Enforcement Officer shall suggest a course of corrective action and establish a reasonable time frame for completion of necessary remedies.
- B. Upon receipt of such notice the property owner shall be given 30 days to obtain a wastewater treatment permit.

§ 92-7. Complaint procedure; notification.

- A. Complaints shall be made to the Town of Canadice Code Enforcement Officer with supporting information that a wastewater treatment system may be deficient (i.e., observed failure to groundwater, surface water, or aboveground seepage, odor, or otherwise creating a public nuisance).
- B. Upon receipt of a bona fide complaint or upon personal observation of said wastewater treatment system, the Town of Canadice Code Enforcement Officer shall notify the property owner and the inhabitants of said property in writing, within seven business days of receipt of the complaint or personal observation, that an inspection pursuant to § 92-5B of this article is required. A copy of such notice shall be sent to the Clerk of the Town of Canadice.

§ 92-8. Administrative relief; appeals.

- A. Appeals of any actions, omissions, decisions or rulings of the Town of Canadice shall be made to the Canadice Town Clerk and must be instituted within 30 days of the act, omission, decision, or ruling from which relief is sought.
- B. Within 30 days of receipt of a written appeal of an action, omission, decision, or ruling of the Canadice Code Enforcement Officer, the Canadice Town Board, convening as the local Board of Health, shall give notice of a public hearing to be held on the appeal.
- C. A sign shall be posted within 10 feet of a public highway at a point on or about the ingress/egress to the land for which an appeal of an action has been submitted and at any other location designated by the Town Board. This posting shall occur at least five days before such hearing and will remain posted until a decision or a ruling has

been made by the Town Board, convening as the Board of Health. The sign shall be no less than 27 inches in width and 20 inches in height and shall contain the applicant's name, the proposed activity and the date and time when a public hearing will be held. [Added 12-10-2001 by L.L. No. 3-2001²]

- D. Within 30 days of final adjournment of a public hearing, the Canadice Town Board shall affirm, modify or deny the action, decision or ruling of the Canadice Code Enforcement Officer or correct any omission, approve, approve with conditions or disapprove the appeal.
- E. The decision of the Canadice 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 local governing body. The Canadice Town Board's discretion in considering an appeal under this article shall not extend to granting variances from this article but shall rather be limited to reviewing the authority having jurisdiction's interpretation or applications 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.

§ 92-9. Enforcement; penalties for offenses.

- A. Violation. In any instance where a wastewater treatment system is located, installed, constructed, altered, enlarged, or extended in violation of this article, or in any instance where this article is otherwise violated, the Canadice Town Board may maintain an action or proceeding in the name of the Town of Canadice in a court of competent jurisdiction to compel compliance with the terms of this article or to restrain by injunction the violation of this article.
- B. Alternative remedies. For any violation or threatened violation of any of the provisions of this article, in addition to other remedies herein provided, the Town of Canadice Code Enforcement Officer may institute any appropriate action or proceeding to prevent unlawful construction, alteration, repair, or reconstruction, to restrain, correct or abate such violation to prevent the use of the wastewater treatment system or to prevent any illegal act, conduct, business or use regarding such wastewater treatment system.
- C. Misrepresentation. Any permit or approval granted under this article which is based upon or is granted in reliance upon any material misrepresentation, or upon failure to make material fact or circumstances known, by or on behalf of an applicant, shall be void.
- D. Penalties for wastewater treatment systems that do not require a service contract: Any person who violates any provision of this article shall be subject to a fine not to exceed the sum of \$250 or imprisonment of not more than seven days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation. Such violation notice shall be served by certified mail, return receipt requested, or by personal service. [Amended 4-12-2004 by L.L. No. 1-2004]

2. Editor's Note: This local law also redesignated former Subsections C and D as Subsections D and E, respectively.

- E. Penalties for wastewater treatment systems that do require a service contract: If a service contract on a wastewater treatment system which requires one lapses, a fine of \$500 will be levied to the landowner if a new or renewed contract is not in place within 10 business days of lapse. [Added 4-12-2004 by L.L. No. 1-2004]

§ 92-10. Conflicts with other provisions.

- A. Conflict of law. In any case where a provision of this article is found to be in conflict with a provision of any ordinance or law of the Town of Canadice or with a provision of any statute, rule, regulation, or order of the State of New York, the provision which established the higher standard for the promotion of the health, welfare and safety of the citizens of the Town of Canadice shall prevail. In any case where a provision of this article is found to be in conflict with a provision of any other ordinance, local law or code of this town existing on the effective date of this article, which established a lower standard for the promotion of the health, welfare and safety of the citizens of the Town of Canadice, the provisions of this article shall be deemed to prevail. Any such other ordinance, law or code is hereby repealed to the extent that it may be found to be in conflict with this article.
- B. Savings clause. The adoption of this article shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this article takes effect.