

# **Sec. 675 Town of Theresa: SEWAGE DISPOSAL**

## **Article I. Title; Authority; Purpose**

### **§ 675-1. Short title.**

This chapter shall be known as the "Town of Theresa Onsite Wastewater Treatment Local Law." The Town of Theresa is hereinafter referred to as the "Town."

### **§ 675-2. Applicability.**

This chapter shall govern the design, installation, maintenance, and inspection of all onsite wastewater treatment systems (OWTS's) within the Town except the design or installation of, or treatment of wastewater by means of a community or public sewer. The requirements of this chapter are in addition to, and not in lieu of, any applicable county, state, and federal requirements.

### **§ 675-3. Authority.**

Enactment of this chapter is pursuant to the Municipal Home Rule Law.

### **§ 675-4. Purpose.**

The purpose of this chapter is to promote the health, safety and general welfare of the community by ensuring through the location, construction and use of properly designed facilities that waste discharged from wastewater treatment systems:

- A.** Does not contaminate any drinking water supply or surface water body.
- B.** Is not accessible to insects, rodents, or other possible carriers of disease which may come into contact with food or drinking water.
- C.** Is not a health hazard by being accessible to children and adults.
- D.** Does not give rise to a nuisance due to odor or unsightly appearance.
- E.** Will not violate any other laws or regulations governing water pollution or sewage disposal.

### **§ 675-5. Compliance**

- A.** Wastewater treatment systems shall comply with the specifications and standards set forth in this chapter, in addition to applicable

specifications and standards contained in the following sources now in effect, or as such sources may be amended and/or superseded

- (1) "Wastewater Treatment Standards Individual Household Systems," NYS Department of Health (DOH) (10 NYCRR Appendix 75-A).
  - (2) "Standards For Waste Treatment Works — Institutional and Commercial Sewage Facilities," NYS Department of Environmental Conservation (DEC). *Note: DEC permit required for domestic sewage systems which discharge (1) 1,000 or more gallons per day, (2) to surface water, and/or (3) waste other than domestic sewage.*
  - (3) Onsite Wastewater Treatment Systems Manual, EPA (Publication EPA625-R-00-008, FEB. 2002).
- B.** Copies of the above-noted regulations, standards, guidelines, and manuals, and like materials noted elsewhere in this chapter, are on file in the Town offices.

## **Article II. Prohibitions; Definitions**

### **§ 675-6. Prohibited acts.**

Except as otherwise provided in this chapter:

- A.** It shall be unlawful for any person to construct, alter, or make major repairs to, enlarge, or extend any facility or part of such facility intended or used for the discharge of wastewater without obtaining all required permits and approvals.
- B.** It shall be unlawful for any person to cause to be discharged within the Town any wastewater except by systems designed, installed, and approved in accordance with the requirements of this chapter and a method approved by the Department of Health.
- C.** It shall be unlawful for any person to use or maintain any individual wastewater treatment system that is unsafe, is a source of pollution to any of the surface waters or groundwater source of the state, permits the seepage of raw or partially treated sewage to ground surface, creates a potential health hazard, adversely affects the environment or impairs the use of development of the lot on which it is situated or nearby lands or interferes with the enjoyment or use of property.

D. It shall be unlawful for any person to knowingly abandon a septic tank, seepage pit or cesspool, unless at the time of such abandonment the septic tank, seepage pit or cesspool is pumped out and filled with clean, granular soil or inert, free-flowing, dense material.

E. It shall be unlawful for any person to discharge pollutants to the waters of the state from any outlet or point source without first obtaining a State Pollution Discharge Elimination System (SPDES) permit from DEC, if so required.

### § 675-7. Definitions.

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

#### **ABANDONMENT**

The relinquishment of the use of an Onsite wastewater treatment system with the intention of not continuing use of such system in the future. An Onsite wastewater treatment system shall be presumed to be abandoned when a new wastewater system is being built to replace it.

#### **ABSORPTION DEVICE**

Any structure that is designed to distribute wastewater or effluent into the soil by means of a network of pipes.

#### **ABSORPTION FIELD**

That area to which effluent is distributed for infiltration and treatment into the soil. It includes the area of the subsurface absorption system and, if required by the design, the areas covered by fill used to grade around the system.

#### **ABSORPTION SYSTEM**

Any structure designed to distribute effluent into the soil and provide for its treatment. See "conventional" and "alternative" systems defined below.

A. **CONVENTIONAL ABSORPTION SYSTEM** — One of the following systems:

(1) **ABSORPTION FIELD** — A system of narrow trenches partially filled with a bed of washed gravel or crushed stone 3/4 to 1 1/2 inches in diameter (i.e., aggregate) through which a perforated distribution pipe is laid.

(2) **GRAVELLESS ABSORPTION SYSTEM** — Generally proprietary products, which allow septic tank effluent to infiltrate soil in

the absence of installed aggregate.

- (3) **SEEPAGE PIT** — A covered pit with an open-jointed or perforated lining through which septic tank effluent infiltrates into the surrounding soil.
- (4) **SHALLOW ABSORPTION TRENCHES** — An absorption field with trenches installed at or no more than two feet below original ground level on sites where there is a depth of at least two feet but less than four feet of usable soil.
- (5) **ABSORPTION BEDS** — Similar to an absorption field except the several laterals (lengths of perforated distribution pipe) are installed in a single excavation.
- (6) **SOIL" SYSTEM)"SITE MODIFICATION" or "AMENDED SOIL" SYSTEM)** — System employed when the soil percolation rate is faster than one minute per inch, wherein all soil bounded by two feet from the proposed absorption trenches (i.e., horizontally and vertically) is removed and blended with fine sand or sandy loam and replaced in six-inch layers with mechanical compaction to the approximate density of the Onsite soil.

**B. ALTERNATIVE ABSORPTION SYSTEM** — One of the following systems:

- (1) **RAISED SYSTEM** — A conventional absorption trench system constructed in stabilized permeable fill placed above the original ground surface.
- (2) **MOUND SYSTEM** — A soil absorption system that is elevated above the natural soil surface in suitable fill material; similar to a raised system utilizing sandy fill material without requiring a stabilization period prior to construction of the absorption bed/trenches.
- (3) **INTERMITTENT SAND FILTERS** — A system which comprises the intermittent application of settled wastewater to a bed of granular material which is under drained to collect and discharge filtered effluent to a subsurface absorption facility (i.e., downstream absorption mound or modified shallow trench system).

**(4) NON-WATERBORNE SYSTEMS** — (Composters, chemicals and recirculation toilets, incinerator toilets, sanitary privies) systems designed to treat human wastes with no wet plumbing. These systems must be accompanied by systems designed to treat household wastewater (i.e., greywater) from sinks, showers, tubs and other fixtures by settling and soil absorption in accordance with Appendix 75-A.

**(5) ALTERNATIVE SEPTIC DESIGNS** — Town of Theresa alternative septic designs provided as Appendix F.

**ABSORPTION TRENCH**

A long narrow area which includes a pipe for the distribution of septic tank effluent.

**ADVANCED SEPTIC SYSTEM**

Septic system with a component to pretreat wastewater that is not a conventional system.

**BAFFLE**

A flow deflecting device used in septic tanks and distribution boxes to inhibit the discharge of floating solids, reduce the amount of solids that exit and reduce the exit velocity of the wastewater.

**BIOCHEMICAL OXYGEN DEMAND (BOD)**

The amount of oxygen required by aerobic microorganisms to decompose the organic matter in a sample of wastewater and used as a measure of the degree of water pollution. Also called *biological oxygen demand*.

**BUILDING**

A structure wholly or partially enclosed with exterior or party walls, and a roof, affording shelter to persons, animals or property.

**BUILDING AND ZONING OFFICER**

A person appointed by the Town Board whose duty and authority is to administer and enforce the provisions of this chapter.

**BUILDING DRAIN**

That part of the lowest piping of a drainage system which receives the discharge of wastewater and conveys such discharge to the building sewer. The building drain extends to three feet outside the building wall.

**CESSPOOL**

A covered pit into which wastewater is discharged for disposal by

infiltration of the liquid portion into the surrounding soil.

### **CLEANOUT**

An opening providing access to wastewater collection and treatment devices (i.e., house sewer, septic tank, distribution box) which allows for the cleaning or purging of materials and obstructions.

### **COMBINED SEWER**

A sewer receiving both surface runoff and wastewater.

### **COMBINED SOLIDS DEPTH**

The combined thickness of the scum layer and sludge layer in a septic tank.

### **DESIGN AVERAGE FLOW (DAF)**

The highest expected volume of wastewater, expressed in gallons, that will pass through a wastewater treatment system in a twenty-four-hour period normally occurring during periods of greatest use.

### **DESIGN PROFESSIONAL**

A person licensed or registered in the State of New York and authorized by the State Education Law to design OWTS's described in the standards. The design professional supervises the installation of the OWTS and certifies that the system was built in accordance with the approved plan and/or submits as-built plans of the system. Licensees providing OWTS design services must be qualified to provide those services based upon education, training, and experience. Any licensee providing services that they are not qualified to provide may be subject to professional misconduct charges. OWTS design activities include the evaluation of surface and subsurface site conditions at a defined parcel of land, which may include the investigation of soil characteristics, the performance of soil percolation tests, the determination of subsurface boundary condition and depths, the measurement and recording of existing surface features both natural and manmade, and the subsequent application of these data and the data related to proposed wastewater generation to design an OWTS. These activities generally fall within the scope of practice of professional engineering or architecture.

### **DISINFECTION**

The process of removing harmful bacteria, viruses, and parasites. A

conventional stone and pipe septic system that meets the requirements of Appendix 75-A for horizontal and vertical separation distances adequately provides for treatment and disinfection of the wastewater at the 100-foot boundary defining the horizontal separation to the system. Replacement systems that do not meet the vertical and horizontal separation distance requirements outlined in Appendix 75-A will be required to use enhanced treatment units and UV disinfection of the wastewater.

### **DISTRIBUTION BOX OR DEVICE**

A device used to uniformly distribute effluent to the distribution lines.

### **DISTRIBUTION LINES**

The perforated pipe used to distribute effluent to the absorption field.

### **DROP BOX**

A watertight compartment that receives septic tank effluent and distributes to two primary pipe lines of a soil absorption system, followed by a drop to the remainder of the system after those lines are full.

### **EFFLUENT**

The liquid discharged from a septic tank outlet.

### **EMERGENCY REPAIRS**

Repairs designed to prevent or abate an existing or imminent threat to groundwater or surface water quality or the public health, safety, or welfare, caused or about to be caused by a wastewater treatment system.

### **ENHANCED TREATMENT**

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

### **ENHANCED TREATMENT UNIT (ETU)**

Pre-manufactured structures that provide enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area. ETUs shall have a label indicating compliance with the standards for a Class I unit as described in the National Sanitation Foundation (NSF) International Standard 40.

### **EXISTING GRADE**

The natural topography of land prior to construction activity.

**FAILURE or SYSTEM FAILURE**

A wastewater treatment system that discharges wastewater onto the surface of the ground or into a watercourse, or that has sustained a cracked or broken tank, distribution box, leach line or pipe, or has a malfunctioning pump or other component of such system.

**FINAL GRADE**

The elevation that land will have at the conclusion of cutting, filling or other site work.

**GARBAGE**

Organic solid wastes from domestic and commercial preparation, cooking, or dispensing of food, or from the handling, storage and sale of produce.

**GRADE**

The slope of a line of pipe, trench bottom, or ground surface in reference to a horizontal surface.

**GRAVEL**

A mixture of mineral soil particles with whole individual diameter range from 1/4 inches to three inches.

**GREYWATER**

All sewage or wastewater from a building except waste from flush toilets and urinals.

**GROUNDWATER**

Subsurface water occupying a zone of saturated soil.

**HOLDING TANK**

A sealed vault or tank, usually a reinforced concrete septic tank with no outlet, into which wastewater is discharged for temporary storage.

**IMPERVIOUS MATERIAL**

Material with a percolation rate of slower than 60 minutes per inch.

**INADEQUATE**

An onsite wastewater treatment system that does not meet the standards set forth by § [675-5](#).

**INDUSTRIAL WASTE**

Any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process or industry, manufacturing, trade or business



or from development or recovery of any natural resource.

**INVERT**

The bottom most point of an open conduit or the bottom most point on the inside of a closed conduit.

**LICENSED DESIGN PROFESSIONAL**

A person licensed or registered in the State of New York and authorized by the State Education Law to design the wastewater treatment systems described.

**LIKE-FOR-LIKE (IN-KIND)**

“like-for-like” and/or “in-kind” replacement of an existing septic system component (tank or pipe) is allowed for conventional systems that were lawfully installed with drawings prepared by a licensed design professional and meeting the provisions of Appendix 75-A. Like-for-like replacement is not permitted for components that do not meet the requirements of Appendix 75-A.

**MAJOR REPAIR/ALTERATION**

Any replacement or reconstruction affecting the wastewater treatment system, other than the pumping of the septic tank and minor repairs as hereinafter defined.

**MEAN HIGH WATER MARK**

The average annual high water level.

**MINOR REPAIRS**

Minor repairs shall include such items as the replacement of pumps, damaged pipes (except within the absorption area), electrical repairs, replacement of septic tank covers, or septic tank baffles.

**ONSITE WASTEWATER TREATMENT SYSTEM (OWTS)**

A system that receives, treats, and dispenses wastewater at the property where the wastewater was generated.

**OTHER ENGINEERED SYSTEMS**

A wastewater treatment system of a type not addressed in the Department of Health Design Handbook, designed by a design professional and construction certified by a licensed professional engineer at replacement OWTS sites. These systems shall meet the general minimum requirements of the Town of Theresa alternative septic designs provided in Appendix F.

## **OTHER WASTE**

Garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, ballast and all other discarded matter not sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the state.

## **OTN**

Onsite Wastewater Treatment Training Network. This group provides training to wastewater professionals on the design, installation, and inspection of OWTS.

## **PERCOLATION**

The movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.

## **PERCOLATION TEST**

A standard procedure for testing the soil's ability to accept and convey water to establish the application rate. See Appendix B for proper testing procedures. *Editor's Note: Appendix B, Soil Percolation Test Procedure, is located at the end of this chapter.*

## **PERSON**

Any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the state or any state agency.

## **PREEXISTING INDIVIDUAL WASTEWATER TREATMENT SYSTEM**

Any treatment system that was lawfully in existence prior to the effective date of this chapter.

## **PRIVY**

A building fixed to a vault or pit, equipped with seating to allow for excretion of body waste.

## **REPAIRS AND REPLACEMENTS**

The repair or replacement of OWTS components "in kind" or "like-for-like" may not require the involvement of a licensed design professional for gravity fed conventional systems originally installed under the supervision of a design professional following stamped plans. A "component" is a single part of the system but not its entirety (e.g., a broken pipe, septic tank, pump station, but not the entire absorption field). Repair or replacement

of any type of absorption field that involves relocating or extending an absorption area to a location not previously approved for such, does require a licensed design professional. A licensed design professional is required when repair or replacement involves installation of a new subsurface treatment system at the same location or the use of an alternative system (i.e., raised system, mounds, or sand filter) or ETU.

### **RISER**

A cylinder typically made of concrete or fiberglass that allows easy access to a submerged manhole or inspection port.

### **SANITARY TEE**

A pipe used in septic tanks, distribution boxes and drop manholes to reduce wastewater or effluent flow velocities and to increase solids retention in septic tanks which prevents carryover of solids to subsurface systems. (See "baffle.")

### **SCUM LAYER**

Scum is the wastewater constituent that is lighter than water, and floats.

### **SEASONAL HIGH GROUNDWATER TABLE**

The highest surface of a zone of saturated soil which is at least six inches thick and which persists during the average year for more than a week when the ground is free of frost.

### **SEEPAGE PIT**

A covered pit with an open-jointed or perforated lining through which septic tank effluent infiltrates into the surrounding soil.

### **SEPTIC TANK**

A large, watertight chamber which promotes the growth of anaerobic bacteria for the biological decomposition of sewage.

### **SLOPE**

The ratio of the maximum vertical rise or fall of the land in 50 feet of horizontal distance, expressed as a percentage.

### **SLUDGE LAYER**

Sludge is wastewater material heavier than water that settles to the bottom of a septic tank.

### **SOIL MOTTLES**

Spots or blotches of different color, or shades of color, interspersed with the dominant background color. See Appendix C, Seasonal High

Groundwater Determination. *Editor's Note: Appendix C is located at the end of this chapter.*

**SUBDIVISION**

The division of land into two or more lots, parcels or sites.

**SURFACE WATER BODY**

Any lake, pond, river, permanent or intermittent stream.

**TOILET WASTES**

Human excreta and toilet flushing fluid.

**TREATMENT SYSTEM BUILDING PERMIT**

The permit required before construction of an Onsite wastewater treatment system.

**TREATMENT SYSTEM USE CERTIFICATE**

The certificate issued by the Town upon receipt of the as-built certification from the design professional that the system was installed as designed. For new construction this is the certificate of occupancy, for replacement OWTS's this is a "Use Certificate".

**USABLE SOIL**

Soil with a percolation rate between one and 60 minutes per inch.

**WASTEWATER**

Any water discharged through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device (e.g., water softener brine) which is produced in the building or property.

**WASTEWATER TREATMENT SYSTEM**

A complete system of piping, tanks or other facilities for the Onsite collection and treatment of wastewater, and not connected to a community or public sewer system. A wastewater treatment system is also referred to as a disposal system in SPDES regulations.

**WATERCOURSE**

A visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately following precipitation or snow melt shall not be considered a watercourse.

**WETLAND**

Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh which is either

(a) one acre or more in size, or (b) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

## **Article III. Required Wastewater Treatment System Permit and Treatment Use Certificate**

### **§ 675-8. Wastewater treatment system permit.**

**A.** It shall be unlawful for any person to construct, alter, make major repairs, or enlarge a wastewater treatment system within the Town unless a wastewater treatment system permit ("permit") has been issued, except in the case of emergency repairs, as provided in § [675-17](#).

**B.** Applications for a permit may be made only by the property owner for which the system is proposed or his/her duly authorized agent or assign. Applications shall be in writing signed by the applicant on such form as the Building and Zoning Officer shall determine. A fee as set by resolution of the Town Board must accompany the application for a permit. In addition, three stamped copies of the wastewater system plans prepared by a licensed design professional will be required for new construction, additions or alterations, repair or replacement of any type of absorption field that involves relocating or extending an absorption area to a location not previously approved for such. At the sole discretion of the Building and Zoning Officer, the repair or replacement of components "in kind" or "like-for-like" may not require the involvement of a licensed design professional if stamped engineered drawings are available for the design for the original system and the system is conventional gravity fed stone and pipe trenches in accordance with the provisions outlined in Appendix 75-A. Replacement of all other OWTS types requires stamped drawings prepared by a Design Professional.

**C.** The Building and Zoning Officer shall not issue a permit unless:

**(1)** All pertinent site data has been submitted, verified and certified as required by this chapter, all permit fees have been paid, and the Building and Zoning Officer has determined that the alteration,

repair or construction as proposed in the application complies with all specifications contained in this chapter; or

(2) The Building and Zoning Officer is specifically ordered to issue a permit as directed by the Zoning Board of Appeals (ZBA) pursuant to § [675-23](#) of this chapter or authorized by specific waiver of the Department of Health and all permit fees have been paid.

**D.** The Building and Zoning Officer shall disapprove an application for a permit if he/she determines:

(1) That the applicant has failed to supply all data necessary to make a determination as to whether such wastewater treatment system conforms to the requirements or specifications of this chapter.

(2) That the wastewater treatment system, as proposed, will not conform to the requirements or specifications of this chapter or an order of the ZBA.

(3) That the wastewater treatment systems, as proposed, cannot comply with any prior subdivision, site plan, or Class A or B regional project authorization for such locations.

(4) That any required SPDES permit from the Department of Environmental Conservation has not been issued.

### **§ 675-9. General standards and requirements for wastewater treatment systems.**

**A.** All new OWTS shall meet the minimum requirements of Appendix 75-A. Replacement OWTS shall, to the greatest extent possible, meet the general intent of Appendix 75-A. All wastewater must be discharged into the Onsite wastewater treatment system. Surface and subsurface water, including roof, cellar, foundation and storm drainage shall be excluded from such systems and shall be disposed of so they will in no way affect the system, and are not discharged to surface waters or other waters that would contravene water quality standards.

**B.** No component of a subsurface absorption area shall be located under driveways, roads, parking areas or areas subject to heavy loading, or any paved area unless the absorption system is structurally designed to support vehicular traffic and provide for ventilation.

**C.** No wastewater treatment system shall be allowed in areas where flooding occurs.

- D. Most proposed absorption facilities shall not be located where the final slope of stabilized soil exceeds 15%, but absorption trench systems with stringent minimum horizontal and vertical separation distances (i.e., 10 feet, nine feet, eight feet, or seven feet between parallel trenches and two feet, three feet, or five feet between trench bottom and high groundwater, bedrock, or impermeable soil, respectively) may be constructed on sites with soil having a slope of greater than 15% to less than 20% and a soil percolation rate of one to 60 minutes per inch. For absorption beds, the slope of the site shall not exceed 8%.
- E. Horizontal and vertical separation distances for OWTS shall be governed by Department of Health requirements as set forth in "Wastewater Treatment Standards Individual Household Systems," NYS Department of Health (10 NYCRR Appendix 75-A) see Appendix A of this chapter *Editor's Note: Appendix A is located at the end of this chapter.*
- F. Standards for areas with special soil conditions:
- (1) The natural ground intended for the subsurface absorption system must have a minimum depth of 42" of useable soil above seasonal high groundwater table or bedrock for a conventional stone and pipe septic system. If 42" of useable soil is not present above the seasonal high groundwater table or bedrock, a shallow trench or raised system is needed to provide a minimum of 24" of useable soil beneath the dispersal trench. If any part of a replacement system, including all tapers, falls within 100' from surface water or drinking water supply wells, the OWTS must include the use of an ETU and UV disinfection.
- G. If an existing site does not provide 100' horizontal separation between the outer edge of the dispersal system tapers and surface water and/or drinking water supply wells, the OWTS must include use of an ETU with UV disinfection. The replacement system shall maximize the horizontal separation distance of the dispersal location to surface water and/or drinking water supply wells.
- H. A minimum of two soil percolation tests are required for the site of a proposed absorption area. The percolation rate shall be determined by the procedures described in Appendix B. *Editor's Note: Appendix B is*

*located at the end of this chapter.* This test shall be conducted by the licensed design professional and all appropriate information provided.

**§ 675-10. Conventional absorption system.**

- A.** The wastewater treatment systems classified as conventional absorption systems shall be used on sites with adequate soil percolation and vertical/horizontal separation distances to boundary conditions.
- B.** The plan prepared by a licensed design professional proposing the OWTS and replacement areas (required for new construction only) shall contain substantiating data indicating that the minimum standards set forth in this chapter will be complied with. The Town of Theresa application shall be completed and signed by Licensed design Professional for new and replacement system sites.
- C.** The Building and Zoning Officer may require certification or retesting to verify information submitted as part of the application.

**§ 675-11. Alternative absorption systems and ETUs.**

- A.** At replacement OWTS sites not suitable for conventional absorption systems, alternative absorption systems and/or ETUs are required. Alternative absorption systems include raised systems, mounds, and intermittent sand filters. ETUs should be used where spacial constraints prevent use of an alternative absorption system (all tapers must be 100' from surface water and wells). ETUs shall meet the minimum qualification as being an NSF Standard 40 listed Class I system.
- B.** Replacement OWTS's using an alternative absorption system and/or an ETU, as defined by this chapter and shown on Town of Theresa alternative septic design drawings, as provided in Appendix F shall be designed or approved by a licensed design professional with training and experience with the type of system being installed.
- C.** All ETU systems must be designed, installed, operated and maintained in accordance with the manufactures recommendations. The system must be installed and maintained by a manufacture trained and authorized installer and service provider. A copy of the maintenance contract shall be provided to the Building and Zoning Officer prior to permit being issued. Class I systems must be maintained as required by Appendix 75-A and/or the interval recommended by the equipment



manufacture. Service Agreement shall state that the service provider will notify the Town if the Service Agreement is not renewed and/or canceled.

**D.** The licensed design professional may propose a nontraditional dispersal design using a Town of Theresa approved design as shown in Appendix F. A backup absorption field is not required for replacement systems utilizing an ETU with UV disinfection.

#### **§ 675-12. Wastewater treatment system use certificates.**

**A.** It shall be unlawful for the OWTS to be put into service until a Certificate of Occupancy has been issued for new construction or a Use Certificate. A verbal approval may be granted for temporary use of the replacement OWTS during construction by the Building and Zoning Officer for replacement systems.

**B.** The Design Professional certifying to the Town that the OWTS was installed in accordance with the approved design drawings shall perform a pre-construction meeting with the installer and periodic inspections throughout the installation as needed to certify that the system was installed in accordance with the design drawings.

**C.** A Certificate of Occupancy or Use Certificate shall not be granted until the Building and Zoning Officer has received an as-built certification from the Design Professional that the system conforms to the specifications as set forth on the design drawings.

#### **§ 675-13. Recording of wastewater treatment system permits.**

Any permit issued pursuant to this chapter shall be filed and duly recorded in the office of the Building and Zoning Officer.

#### **§ 675-14. Expiration of permits.**

Unless otherwise provided for in the permit, all permits shall expire within one year of issuance. Once a permit expires and the wastewater treatment system is not complete, a new permit application is required. The owner may apply for a one year extension for the permit unless the property is under a Notice of Violation.

## **Article IV. Preexisting Systems**

#### **§ 675-15. Preexisting Systems.**

It shall be unlawful to alter, make major repairs or enlarge such systems except in conformity with the provisions herein.

### **§ 675-16. OTN Inspection**

Prior to any property sale, conveyance, change of use, title, or application of a Building Permit that may involve a change in use of the existing OWTS (i.e., adding bedrooms or addition), the existing OWTS shall be inspected by an individual meeting the qualifications shown on Appendix E *Editor's Note: Appendix E is located at the end of this chapter.* of this chapter, and a report of findings shall be provided to the Building and Zoning Enforcement Officer.

- (1) The report shall consist of the OTN System Inspection Information Request and System Inspection Findings Worksheet as set forth in Appendix D *Editor's Note: Appendix D is located at the end of this chapter.* and, for purposes of this provision, the report shall be good for two years from the date of inspection.
- (2) In the event that weather conditions reasonably prevent an inspection and the submission of said report prior to sale/conveyance, the buyer must provide the report to the Building and Zoning Enforcement Officer within 6 months of sale/conveyance and is responsible for any upgrades necessary to obtain an approved wastewater system.
- (3) Within seven days of any such sale/conveyance, the buyer of any such property shall send written notice to the Building and Zoning Officer advising of the closing date of such sale/conveyance or provide a completed OTN Inspection Report.
- (4) These requirements shall not apply to a property transfer of vacant land.
- (5) Metal septic tanks and concrete tanks over 25 years old automatically fail the OTN Inspection. Owner must demonstrate the age of the septic tank with the stamped design drawings and/or paper receipt from the installation of the tank. Acceptable tanks must demonstrate to be less than 25 years old, have proper liquid level, and not have any signs of structural deterioration, tanks must have inlet and outlet baffles. The volume of the tank shall be determined. If the volume of the tank is less than 1,000 gallons, the tank shall be replaced with a tank with a minimum volume of

at least 1,000 gallons. Furthermore, the volume of the tank shall be in accordance with Appendix 75-A.

(6) If water flushes back into the tank after pumping the system fails the OTN Inspection.

(7) The dispersal location must meet the separation distance requirements of Appendix 75-A or the existing septic system fails the OTN Inspection.

B. If, based upon the inspection report, the existing wastewater system is determined to be a failure or does not otherwise meet the requirements of this document, a written notice of violation shall be issued to the property owner, and an approved wastewater treatment system permit must be obtained within six months.

C. If a lending institution requires a property owner to obtain a wastewater treatment system inspection and pumping of septic tank for refinancing, such reports shall be filed with the Building and Zoning Officer and must be on the report format set forth in Appendix D. *Editor's Note: Appendix D is located at the end of this chapter.*

D. Pursuant to § 675-25, failure to abide by these provisions shall be deemed a violation running, per day, from the date of the sale or conveyance of the property.

### **§ 675-17. Repair, alteration, enlargement or extension of a system.**

It shall be unlawful to make major repairs, alter, enlarge or extend a preexisting wastewater treatment system without an approved permit, except as follows: Emergency repairs — repairs designed to prevent or abate an existing or imminent threat to public health, safety or welfare caused or to be caused by Onsite wastewater treatment system. The Building and Zoning Officer shall be notified immediately of any such existing or imminent threat, and in no case should this repair include enlarging the absorption area or replacing or disconnecting septic tanks.

## **Article V. Administration**

### **§ 675-18. Building and Zoning Officer.**

- A. The Building and Zoning Officer shall have the duty to administer and enforce the provisions of this chapter. Persons adversely affected by an action, omission, decision or ruling by the Building and Zoning Officer may appeal to the ZBA, which shall render a decision regarding the appeal only after holding a hearing on the matter in accordance with the time periods set forth in § 675-23 of this chapter. The Building and Zoning Officer shall not plan, design, construct, sell or install wastewater treatment systems within the Town.
- B. The Building and Zoning Officer may, by written notice, order all further work stopped on any wastewater treatment system which is being constructed or installed in violation of this chapter.
- C. As further set forth in Subsection E, the Building and Zoning Officer may conduct such inspections, investigations, examinations, tests and site evaluations with respect to an application for a wastewater treatment system permit and/or the issuance of a treatment use certificate.
- D. In the case of multiple-family systems or systems serving more than one principal use, the establishment of a proper legal entity, such as a transportation corporation or homeowners' association, will be required and a copy of any agreement between the property owners shall be provided to the Building and Zoning Officer.
- E. Inspection, investigation, examination, testing and evaluation of systems.
- (1) The Building and Zoning Officer or his/her designee may inspect, investigate, examine, test and evaluate (hereinafter collectively referred to as "inspections"), or order the property owner(s) to obtain same, any wastewater treatment system built after this chapter takes effect to ensure that it is being maintained in proper working order. Inspections shall be made during any reasonable hours. Where the Building and Zoning Officer determines that a system is not being maintained in compliance with this chapter or any certificate issued hereunder, he/she may order that use of the system cease, that the defects be corrected, that the misuse be abated within a reasonable time, and/or issue any other written order concerning the elimination or removal of any substandard system or component thereof. If the

prescribed action is not taken within the time fixed by the Building and Zoning Officer, he/she may revoke any certificate issued, and/or refer the matter to the Department of Health or other agency/department, in addition to other remedies herein provided.

- (2) If admission for inspection(s) is refused or cannot be obtained from the person in possession or occupancy, the Building and Zoning Officer or his his/her designee shall be authorized to obtain a warrant to make an inspection, provided that reasonable or probable cause is shown.
- (3) In case of an emergency, the Building and Zoning Officer or his/her designee may, without a warrant, enter any premises to inspect the same, at any time, without the permission of the person in possession or occupancy.

#### **§ 675-19. Required records.**

The original or certified copy of all applications, plans, findings, decisions, permits, certificates or other rulings of the Building and Zoning Officer or ZBA under this chapter shall be retained in the files of the Building and Zoning Officer as a permanent public record.

#### **§ 675-20. Form of petitions, applications and appeals.**

Unless otherwise stated, all petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Building and Zoning Officer. Completed forms shall be accompanied by whatever further information, plans or specifications may be required by such forms.

#### **§ 675-21. Variances.**

The ZBA may vary or adapt the strict application of any of the requirements of this chapter in the case whereby such strict application would result in unnecessary hardship that would deprive the property owner of the reasonable use of the land involved. No variance in the strict application of any provision of this chapter shall be granted by the ZBA unless it shall find all of the following:

- A. That there are special circumstances or conditions, fully described in the findings of the ZBA, applying to such land and that such circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable

use of such land.

- B.** That the variance would not be materially detrimental to the purposes and objectives of this chapter, or to other adjoining properties, or otherwise conflict with the purpose or objectives of any plan or policy of the Town.
- C.** That for reasons fully set forth in the findings of the ZBA, the granting of the variance is necessary for the reasonable use of the land and that the variance as granted by the ZBA is the minimum variance which would alleviate the specific unnecessary hardship found by the ZBA to affect the applicant.
- D.** In granting any variance, the ZBA shall prescribe and attach any reasonable conditions that it deems to be necessary or desirable.

**§ 675-22. Application for variance.**

Variances may be sought by filing an application with the ZBA using forms supplied by the Building and Zoning Officer, which shall include all information reasonably considered by the ZBA as necessary to make its findings under § [675-23](#) of this chapter, including, among other things, the legal description of the property for which the variance is sought, plans and elevations necessary to fully describe the conditions for which a variance is sought, and all other information reasonably considered necessary by the ZBA for an understanding of the conditions of the property for which the variance is sought and the relationship thereof to surrounding properties.

**§ 675-23. Variance application hearing and decision.**

- A.** Within 30 days of receipt by the ZBA of a completed application for a variance from the provisions of this chapter, the ZBA shall give notice by publication in an official newspaper of the Town of a public hearing to be held on the variance application which public hearing shall be held not less than five days nor more than 30 days after the publication of said notice. In addition to the publication of the notice of public hearing, at least 10 days prior to said public hearing, the Building and Zoning Officer shall mail notices of said public hearing to all owners of properties located within 500 feet of the property for which the variance is sought. For purposes of said notice by mail, the owners of properties within 500 feet shall be determined from the latest completed

assessment roll of the Town and the notices shall be mailed to said owners at the addresses set forth on said roll.

**B.** Within 30 days of the closing of the public hearing, the ZBA shall grant, grant with condition, or deny the variance applied for. The decision of the ZBA shall be in writing and shall contain each of the findings specified in § [675-21](#) of this chapter.

**§ 675-24. Appeal from action of the Zoning Board of Appeal.**

An action, decision, omission or ruling of the ZBA pursuant to this chapter may be reviewed at the request of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made not later than 60 days from the effective date of the decision or ruling or the date when the action or omission occurred.

**Article VI. Enforcement**

**§ 675-25. Penalties for offenses.**

Written notice of violation shall be issued to any property owner found in violation of this chapter, stating the date(s) by which corrective action shall be completed. Any violation beyond that date shall be punishable by a fine not to exceed \$250 per day to be recovered by the Town Board in any court of competent jurisdiction. Each such person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the person for the purposes of this article. The penalty provisions of the Department of Environmental Conservation and/or Department of Health may also apply.

**§ 675-26. Alternative remedies.**

In case of any violation or threatened violation of any of the provisions of this chapter, in addition to other remedies herein provided, the Town Board or its designee, including, but not limited to, the Town Attorney and/or the Building and Zoning Officer may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use, 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 treatment system.

**§ 675-27. Misrepresentation.**

Any permit or approval granted under this chapter which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect the remedies available to the Town Board under §§ [675-25](#) and [675-26](#) of this chapter.

**Article VII. Miscellaneous Provisions**

**§ 675-28. Construal of provisions.**

Where the conditions imposed by any provision of this chapter are less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other statute, local law, order, rule, regulations, the provisions which are more restrictive shall govern.

**§ 675-29. Savings clause.**

The adoption of this chapter 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 chapter takes effect.

**§ 675-30. Other authority.**

No provision of this chapter shall be construed to limit any state standards for wastewater treatment systems.

**Appendices**

- Appendix A Separation Distances from Wastewater System Components.
- Appendix B Soil Percolation Test Procedure
- Appendix C Seasonal High Groundwater Determination
- Appendix D OTN System Inspection Report
- Appendix E Wastewater Inspectors Qualifications



Appendix F Town of Theresa Alternative Septic Designs  
Appendix G Town of Theresa OWTS Permit

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