
ARTICLE VIII, . SEWERAGE, SEWAGE AND REFUSE

Sec. 873.720. Purpose.

The purpose of this article is two-fold.

- A. The first purpose is to ensure that the health and safety of the drinking water and other natural resources of the County of Westchester is preserved and that potential threats to such natural resources are monitored and reduced through the implementation of a system whereby providers of onsite wastewater treatment system services will be licensed by the Commissioner of Health and subject to reporting requirements which will enable the Department of Health to record and monitor all available data relating to onsite wastewater treatment systems located within Westchester County, and to establish database and public education systems pursuant thereto; and
- B. The second purpose is to ensure that the sewage and other wastewater generated from habitable buildings and properties in Westchester County is processed in the most environmentally appropriate manner possible by requiring all onsite wastewater treatment systems constructed or installed in Westchester County conform to the standards established in the New York State Public Health Law, by the Board of Health and/or the Commissioner of Health, and/or to require, where possible, the connection of such buildings or properties to public sewer systems.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.721. Definitions.

Whenever used in this article, the following terms shall have the meaning set forth below:

- A. *Construction* shall mean installation replacement, expansion, remediation, alteration, and/or modification of onsite wastewater treatment system components, including soil, gravel, pipes, tankage, pits, junction boxes, and all associated appurtenances and/or distribution systems.
- B. *Repair* shall mean the repair, maintenance, and replacement in kind and in situ of broken, damaged, or worn onsite wastewater treatment system components.
- C. *Septic system contractor* shall mean an individual who engages in the performance of any one (1) or more of the following services, or who offers to provide any one (1) or more of the following services for a fee, in Westchester County, with respect to onsite wastewater treatment systems: construction; installation; replacement; expansion; repair; remediation; alteration; modification and/or rehabilitation; and servicing, except for evacuation, removal, collection or transportation of septage.
- D. *Licensed septic system contractor* means a septic system contractor who possesses a valid license issued by the Westchester County Commissioner of Health pursuant to the provisions outlined in section 873.722 herein.
- E. *Individual* means any person, firm, company, association, corporation, partnership, co-partnership, joint-stock company, trust, governmental entity, or any other legal

business entity and/or the employees thereof.

- F. *Harmful or deleterious substance* shall mean one (1) or a combination of the following:
- (1) Roof, cellar, foundation, footing, area, storm, surface or ground water.
 - (2) Discharge of domestic sewage in excess of one hundred fifty (150) gallons per day per capita or at a rate exceeding three hundred (300) gallons per capita per day within any one-hour period.
 - (3) Liquid, gaseous, solid or other trade or industrial waste for which a written approval has not been obtained from the official agency having by law responsible charge of the receiving sanitary sewer or sewer treatment works to which such sewer is tributary, when having one (1) or more of the following characteristics at point of discharge:
 - a. Volume exceeding the limits acceptable to the above official agency.
 - b. Solids in excess of one thousand (1,000) parts per million.
 - c. Viscosity in excess of 1 10/100.
 - d. Temperature lower than thirty-two (32) degrees Fahrenheit or above one hundred fifty (150) degrees Fahrenheit.
 - e. Color in excess of five hundred (500) parts per million.
 - f. Biochemical oxygen demand in excess of four hundred (400) parts per million.
 - g. Chlorine demand in excess of twenty-five (25) parts per million measured after thirty (30) minutes holding at sixty-eight (68) F.
 - h. Suspended solids in excess of three hundred (300) parts per million.
 - i. Settleable solids measured by Imhoff cone in one (1) hour in excess of ten (10) milliliters per liter of discharge.
 - j. Hydrogen ion concentration below four and one-half (4.5) or in excess of nine and one-half (9.5).
 - k. Unshredded garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dye stuffs, grit, abrasives, metal filings, trimmings or other offensive material exclusive of domestic waterborne sewage.
 - l. Chemicals or chemical compounds which are toxic, inflammable or explosive by themselves or upon acidification, alkalization, oxidation or reduction, or are strong reducing agents, inflammable or explosive gases, liquids or solids.
 - m. Viable pathogenic bacteria, other than normally discharged in raw domestic sewage.
 - n. Radioactive material which is not readily soluble in water and in an amount such that the radioactivity shall not exceed one (1) microcurie of Strontium-90 or Polonium-210; or one hundred (100) microcurie of Iodine-131 or Potassium-32, or any other radioactive material having a half-life of more than thirty (30) days; or ten (10) microcuries of other radioactive material; for each one million (1,000,000) gallons of sewage in the receiving sewer. This limit shall not apply to any radioactive material which has been diluted and homogenously mixed with stable isotopes of the same element in the same chemical form to the extent that the dose rate does not exceed three

hundred (300) millirems per week.

- G. *Offensive material* shall mean any sewage, fecal matter, manure, offal, garbage, dead animals, meat wastes, blood, tankage, brine, urine or any putrescible organic matter or the contents of privies, cesspools, septic tanks or chemical toilets, either in liquid or solid state, or any other substance or liquid dangerous or prejudicial to health.
- H. *Privy* shall mean any non-portable facility or structure provided for the temporary storage or disposal of human excreta without water carriage. This definition shall not apply to other non-waterborne systems regulated by 10 NYCRR Part 75, Appendix 75-A.
- I. *Sanitary landfill* shall mean the controlled process of disposing of refuse or offensive material by depositing, compacting in layers and completely covering all such refuse and material.
- J. *Onsite Wastewater Treatment System, (OWTS)* also known as a Septic System, Separate Sewage Disposal System (SSDS) or Subsurface Sewage Treatment System (SSTS) shall mean the whole or any part of a system or facilities or means for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, regardless of location with respect to any building or structure or premises thereby served. Such system shall include but shall not be limited to facilities for the treatment or modification or required control of harmful or deleterious substance before discharge to a sewage disposal system (individually and/or collectively referred to herein as "OWTS").
(Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, §§ 6, 7)
- K. *Septage* shall mean the contents of a septic tank, cesspool, or other separate sewage disposal system facility which receives domestic sewage waste.
- L. *Domestic sewage* shall mean water-carried human and animal wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration and surface waste as may be present.
- M. *Septage collector* shall mean an individual who engages in the performance of any one (1) or more of the following services, or who offers to provide any one (1) or more of the following services for a fee, in Westchester County, with respect to separate sewage disposal systems: evacuation, removal, collection or transportation of septage.
- N. *Licensed septage collector* means a septage collector who possesses a valid license issued by the Westchester County Commissioner of Health pursuant to the provisions outlined in section 873.722 herein.
- O. *Major expansion of an existing building or structure* shall be defined as any renovation or expansion of an existing residential building or structure resulting in a gross floor area increase of 100% or more, or 1,000 square feet or more, whichever is less, within any five year period; or resulting in an increase in the total number of bedrooms in such building or structure.
- P. *Change of use at a commercial or institutional building or structure* shall mean, but not be limited to any change in nature of wastewater generated, any change in quantity of the wastewater generated, any change in utilization or intensity of use of the building or structure, and any change in the type of facility or facilities that occupy the building or structure. Types of facilities shall include but not be limited to housing, retail, food service, office, warehouse, dental, medical, salons, and

industrial.

- Q. *Remediation* shall mean installation, replacement, or expansion of onsite wastewater treatment system components to correct an OWTS failure, or impending failure, resulting in, or that may result in, the discharge of sewage or domestic wastes or trade wastes or offensive material on to the surface of the ground, into a storm sewer, or into a watercourse or water body. Remediation shall not include repairs, as defined above, to correct an OWTS failure.

Sec. 873.722. Licensing and instruction requirements for septic system contractors and septage collectors.

Notwithstanding any other provision of this chapter to the contrary:

- A.(1) Beginning on April 1, 2002, each and every person who provides or offers to provide services as a septic system contractor in Westchester County shall have obtained a license from the Commissioner in accordance with the requirements of this section. No person may provide or offer to provide services as a septic system contractor after April 1, 2002, without first having obtained such a license, except as may be authorized by the Commissioner pursuant to section 873.722 C.(12), below.

- (2) Beginning on the effective date of the Local Law entitled, "A Local Law amending the Laws of Westchester County with respect to the licensing of persons engaged in evacuating, removing, collecting or transporting septage as septage collectors," each and every person who provides or offers to provide services as a septage collector in Westchester County shall have obtained a license from the Commissioner in accordance with the requirements of this section. No person may provide or offer to provide services as a septage collector after such effective date without first having obtained such a license, except as may be authorized by the Commissioner pursuant to section 873.722 C.(12), below.

B. Application and instruction requirements.

- (1) Any individual who seeks to operate as either a septic system contractor or septage collector in Westchester County shall submit an application to the Commissioner on a form to be provided by the Commissioner, along with the initial nonrefundable application fee in the amount set forth below.
- (2)(a) Any individual who seeks to operate as a septic system contractor in Westchester County engaged in the construction, installation, repair and/or rehabilitation or servicing of separate sewage disposal systems shall be required to participate in a licensing instruction program developed and implemented by the department, or its duly authorized designee, which program shall include both course work in the areas of septic system construction, installation and operation and standard examinations relating to the matters covered by such course work.
- (b) Any individual who seeks to operate as a septage collector in Westchester County engaged in services involving the evacuation, removal, collection or transportation of septage shall be required to participate in a licensing instruction program developed and implemented by the department, or its duly authorized designee, which program shall include course work in the

safe, sanitary and efficient delivery of such services and standard examinations relating to the matters covered by such course work.

- (3) As part of the licensing instruction programs set forth in subsection B.(2), above, the department shall hold courses and examinations periodically, at such time and in such locations as the Commissioner shall specify. Any person who has completed the application form and submitted the required application fee and licensing instruction program fee for either or both of the licensing instruction programs set forth in subsection B.(2), above, shall be eligible to participate in the next regularly scheduled license instruction program. Pursuant to the licensing instruction programs set forth in subsection B.(2), above, the department shall conduct such examinations, which may take the form of written, oral and/or practical examinations, as it deems necessary to test the applicants' knowledge of SSDS construction, installation, repair, and rehabilitation and/or evacuation, removal, collection or transportation of septage.

C. Licensing.

- (1) Upon the successful completion of the applicable licensing instruction program, including successful completion of the applicable examination to the satisfaction of the Commissioner, and the payment of the biennial licensing fee, the Commissioner shall issue a license certificate to the individual, which license shall indicate that the holder thereof is entitled to engage in the work or occupation of a licensed septic system contractor or licensed septage collector. All licenses shall expire two years from the date of issuance.
- (2) The licensee shall carry the license certificate on his person at all times while engaging in or performing the work for which the license has been issued in Westchester County. Such license shall be shown to any properly interested person, including customers, upon request. The licensee shall also conspicuously post a sign, at the primary public street entrance to the work site, which sign shall contain the licensee's Department of Health license number in a form to be specified by the Commissioner.
- (3) Licenses issued by the department pursuant to this section shall be utilized only by the person named on such license and shall be non-transferable. The license of one individual shall not be deemed to satisfy the separate licensing requirements applicable to employees, contractors and/or subcontractors of such individual where such employees, contractors and/or subcontractors are performing services which require a license pursuant to this section.
- (4) All such construction; installation; repair and/or rehabilitation; and servicing of OWTS in Westchester County shall be subject to the direct supervision of the licensed septic system contractor, and all such evacuation, removal, collection or transportation of septage shall be subject to the direct supervision of the licensed septage collector. For purposes of this subsection, "direct supervision" shall mean that the licensed individual shall be responsible for all activities on site, and shall, during the course of providing such services, be physically present at the work site.
- (5) Exceptions to licensing requirements. The provisions of this section shall not apply to individuals who are employees of any federal or state agencies, when such individuals are acting within the scope of that employment.

- (6) Fees. The non-refundable fees which shall be paid to the department in connection with the application and licensing procedures outlined herein shall be:
 - a. Original application fee: \$200.00 per septic system contractor applicant; \$100 per septage collector applicant.
 - b. Septic system contractor license instruction program fee (including the cost of examination): \$100.00 per applicant for initial septic system contractor exam; \$25.00 for reissuance of septic system contractor examinations and/or for septic system contractor renewal examinations.
 - c. Biennial license/renewal fee: \$200.00 per licensed septic system contractor; \$100.00 per licensed septage collector.
- (7) The Commissioner may require the participation of licensed septic system contractors and/or licensed septage collectors at department-sponsored informational seminars at any time during any licensing term in order to ensure that all licensed septic system contractors and/or licensed septage collectors are informed of developing issues, technologies, and laws which may impact the performance of services by the licensed septic system contractor and/or licensed septage collector in Westchester County.
- (8) All licensed septic system contractors and licensed septage collectors shall comply, at their own expense, with the provisions of all applicable federal, state and municipal laws, rules, regulations or requirements including, but not limited to, all federal, state and municipal laws, rules, regulations or requirements applicable to the licensee as an employer of labor or otherwise. All licensees shall be required to comply with all rules, regulations and licensing requirements pertaining to its professional status and that of its employees, partners, associates, subcontractors and others employed to render the services hereunder.
- (9) Renewal. No person shall perform the services of a licensed septic system contractor or licensed septage collector after the expiration of the license issued by the department. The licensed septic system contractor or licensed septage collector may seek renewal of their licenses by submitting a renewal application, on the form provided by the department, to the department not less than 30 days in advance of the expiration date of the licensed septic system contractor's or licensed septage collector's existing license. Prior to the approval of the renewal license, the licensed septic system contractor or licensed septage collector shall be required to submit a completed application and pay the appropriate biennial renewal fee, as referenced above, prior to the department's issuance of the renewal license, and may be required to successfully complete a renewal examination. The Commissioner may, in his discretion, require any licensee who fails to submit the renewal application within the time frames specified above to submit an application and fees, in accordance with this section, as though the licensee had not previously been licensed by the Commissioner.
- (10) The Commissioner may refuse to issue or renew a license in the event that an individual fails to satisfactorily complete the licensing instruction program, examination, or renewal examination, or fails to comply with the licensing standards outlined herein.
- (11) Upon the issuance of a license by the Commissioner, the names and contact

information for each licensed septic system contractor and licensed septage collector shall be placed on a public registry to be maintained by the Commissioner and made available for consumer review and reference.

- (12) The Commissioner, in his discretion, may issue a temporary license to a prospective licensed septic system contractor or prospective licensed septage collector in the case of an emergency where, in the opinion of the Commissioner, the condition of a OWTS poses a threat to public health and safety, provided however, that the duration of such temporary license shall not exceed six months. The Commissioner may, in his discretion, refuse to issue a temporary license or suspend any existing temporary license where the Commissioner deems the qualifications or work practices of the holder of the temporary license to be unsatisfactory, or where the threat to public health and safety has been eliminated to the satisfaction of the commissioner. The issuance of such a temporary license may be utilized by its holder only with respect to the emergency identified and which formed the basis for issuance of the temporary license, and shall not entitle the holder thereof to provide services as a licensed septic system contractor or licensed septage collector in Westchester County generally. The holder of such a temporary license shall be required to pay pro rata fees, in accordance with the fees established in subsection C.(6), above, on a month-to-month basis for the term of such temporary license.

(Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, § 8)

Sec. 873.723. Standards applicable to licensed septic system contractors, licensed septage collectors, and owners of septage removal vehicles.

- A. All licensed septic system contractors and licensed septage collectors shall comply with all provisions set forth in this Article VIII to the extent that such provisions relate to licensed septic system contractors, licensed septage collectors or OWTS, and to any other provision of this chapter which relates to such license holders.
- B. All licensed septic system contractors and licensed septage collectors shall comply with all standards of workmanship as may be established in the training programs to be provided by the department, or its designee, pursuant to such licensing programs, or generally in the industry.
- C. No person shall knowingly engage in any fraud or material deception of the commissioner, the department, or any Westchester County consumer with respect to the qualifications or licensing status of the individual, its employees, or independent contractors, or the services which are offered or provided to any such consumer, in connection with the services regulated hereunder.
- D. No person shall knowingly cooperate with any individual engaged in any fraud or material deception of the commissioner, the department, or any Westchester County consumer with respect to the qualifications or licensing status of the individual, its employees, or independent contractors, or the professional services which are offered or provided by such individual to any such consumer, in connection with the services regulated hereunder.
- E. Septage removal vehicles.
 - (1) Prior to the use of a motor vehicle for purposes of evacuation, removal, collection or transportation of septage, the owner or lessee of such motor vehicle

intending use for such purposes in Westchester County, shall obtain a permit from the department approving use for such purposes. No person shall use a motor vehicle or cause a motor vehicle to be used for such purposes without a permit issued by the department. The provisions of this subsection shall not apply to motor vehicles owned and/or operated for such purposes by a municipality.

- (2) All permits required by this subsection shall expire two years from the date of issuance.
- (3) The non-refundable fees which shall be paid to the department in connection with the permitting required by this subsection shall be:
 - a. Original application fee: \$200 per motor vehicle.
 - b. Biennial license/renewal fee: \$200.00 per motor vehicle.

(Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, § 9)

Sec. 873.724. Reporting requirements for licensed septic system contractors and licensed septage collectors.

Notwithstanding any other provision of this chapter to the contrary:

- A. Each and every licensed septic system contractor and licensed septage collector shall be required to complete a septic system data form provided by or otherwise approved by the commissioner upon the completion of any on-site services performed with respect to any OWTS or evacuation, removal, collection or transportation of septage in Westchester County, which form shall specify the service provided to the property owner and any other information which the commissioner, in his discretion, may deem appropriate. Each and every licensed septic system contractor and licensed septage collector shall be required to issue a copy of the septic system data form to both the commissioner and to the owner of the facility which is served by such OWTS within thirty business days of the service date. Submission of the septic system data form to the Department of Environmental Facilities at the time of discharge into the County trunk sewer system shall constitute submission to the commissioner under this section. Such septic system data forms shall include language which informs the property owner that all licensed septic system contractors and licensed septage collectors shall be required to maintain their Westchester County license; shall be required to display such license and license number to the property owner upon request; and shall specify the contact information for the department.
- B. In the event that any service provided by the licensed septic system contractor or licensed septage collector indicates that the OWTS presents a significant threat to public health, safety and/or the environment, the licensed septic system contractor or licensed septage collector shall state the existence and nature of such emergency clearly on the face of such septic system data form, and shall issue a copy of the septic system data form to both the commissioner and to the owner of the facility which is served by the OWTS within three business days of the service date.
- C. To the extent that the condition of any given OWTS is such that the licensed septic system contractor cannot bring the OWTS into compliance with all applicable federal, state and municipal laws, rules, regulations or requirements, the licensed septic system contractor shall advise the consumer of such condition in advance of providing any services to the consumer with respect to such OWTS, and shall note on

the face of any septic system data form prepared with respect to such OWTS both the existence of such condition and the subsequent efforts, if any, made by the licensed septic system contractor to bring the OWTS into conformance with such laws, rules and regulations, and the consumer's assent to same.

- D. Licensed septic system contractors and licensed septage collectors shall be required to maintain a copy of each and every septic system data form for a period of not less than six years from the date of service.
- E. (i) The commissioner shall maintain a database of the records for each OWTS, which records are to be provided by all licensed septic system contractors, and shall include, but not be limited to, the following information, where applicable:
- (1) Residence address;
 - (2) Number of bedrooms;
 - (3) Number of bathrooms;
 - (4) Square footage of residence/commercial structure;
 - (5) Type of sewage disposal system;
 - (6) Grade/slope of disposal area;
 - (7) Percolation rate at disposal area;
 - (8) Distance from well, if applicable;
 - (9) Well yield (gallons per minute), if applicable;
 - (10) Depth of well (feet), and physical characteristics of well, if applicable;
 - (11) Date of system installation;
 - (12) Name of licensed septic system contractor;
 - (13) A listing of current and previous owners; and
 - (14) Maintenance history.
- (ii) The commissioner shall maintain a database of the records for each OWTS, which records are to be provided by all licensed septage collectors, and shall include, but not be limited to, the following information, where applicable:
- (1) Residence address;
 - (2) Date of evacuation, removal or collection of septage for transport;
 - (3) Name of licensed septage collector;
 - (4) Total volume of septage evacuated, collected or removed for transport;
 - (5) Name of septage receiving facility following transport;
 - (6) Number of septic tanks evacuated;
 - (7) Approximate volume of each septic tank evacuated;
 - (8) Number of cesspools, seepage pits, and/or other system components evacuated; and
 - (9) Approximate volume of each cesspool, seepage pit, and/or other system component evacuated.
- F. The information contained in such database shall be made available for inspection by members of the public at reasonable times during the regular business hours of the department.
- G. The department shall prepare and provide a report semi-annually to the Board of Legislators on the data collected pursuant to this section with appropriate comment.
- (Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, § 10)

Sec. 873.725. Penalties and enforcement.

Except as expressly stated in this Article VIII, any person who is deemed to have violated section 873.723 hereof, shall be subject to enforcement proceedings in accordance with the provisions of sections 209-215; 217-221; and 304-309 of this chapter. Each day of a continuing violation shall constitute a separate and distinct violation hereunder. This provision is not, however, intended to impose any liability or affirmative obligation upon the owner of any real property which is served by an OWTS regarding any such services which may be provided on such property by any unlicensed individual where that individual represented to such owner that he or she was a licensed septic system contractor or licensed septage collector.

(Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, § 11)

Sec. 873.726. Approval required for onsite wastewater treatment systems.

- A. No person shall undertake to construct any new building or structure requiring an onsite wastewater treatment system or to construct such system to serve any existing building or structure without first having obtained the written approval for such system issued pursuant to the Public Health Law or by the commissioner.
- B. No person shall undertake to construct any major expansion of an existing building or structure requiring an onsite wastewater treatment system or to construct, install, replace, expand, remediate, alter, and/or modify such system without first having obtained the written approval for such system issued pursuant to the Public Health Law or by the commissioner.
- C. Such onsite wastewater treatment system to serve any major expansion of an existing building or structure together with the existing building and structure shall comply with current standards, rules or regulations duly promulgated by the commissioner and with the terms or conditions of approval issued therefore or approved amendments thereto.
- D. No person shall undertake to construct, install, replace, expand, remediate, alter, and/or modify an onsite wastewater treatment system without first having obtained the written approval from the commissioner. This paragraph shall not apply to repairs of onsite wastewater treatment system components.
- E. Any change of use at a commercial or institutional building or structure, or expanded use at a commercial or institutional building or structure served by an onsite wastewater treatment system, shall require the prior written approval of the commissioner deeming the existing onsite wastewater treatment system to be adequate.
- F. Such onsite wastewater treatment system serving any change of use at a commercial or institutional building or structure resulting in an increase in wastewater flows exceeding the capacity of the onsite wastewater treatment system as determined by the Department of Health, or to serve an expanded use at a commercial or institutional building or structure resulting in an increase in wastewater flows exceeding the capacity of the onsite wastewater treatment system as determined by the Department of Health, shall comply with current standards, rules or regulations duly promulgated by the commissioner and with the terms or conditions of approval issued therefore or approved amendments thereto.
- G. No such system for the subsurface disposal of sewage shall hereafter be approved on any building site not having in existence on the date of approval the required usable

area. Such area thereafter shall be so isolated and protected as to effectively prevent removal, displacement, compaction or other adverse physical change in the characteristics of the soil or in the drainage of the area designated for such usage.

- H. Such onsite wastewater treatment system shall be constructed, installed, replaced, expanded, remediated, altered, and/or modified in accordance with the standards, rules or regulations duly promulgated by the commissioner and with the terms or conditions of the approval issued therefor or approved amendments thereto.
- I. Whenever inspection indicates the construction to be otherwise than in accordance with the Public Health Law or this Code or the conditions of any permit or written approval issued pursuant thereto or the standards applicable to said construction, all work shall cease upon written notice served upon any person connected with or working in or about the said system or any part thereof, or by registered mail to the last recorded address of the person named in such permit or approval. Thereafter no further work shall be done other than to remedy such violation and to proceed with work in compliance with the aforementioned requirements, provided the inspector determines that the work may properly proceed. Otherwise, the written approval shall terminate and no further work shall be undertaken until a new written approval shall have been obtained.

Whenever considered necessary by the inspector, any covered work shall be promptly uncovered for inspection at any time before issuance of the certificate of completion. Any approval shall be subject to modification or change as may be directed in writing by a representative of the commissioner due to conditions found during construction, provided that such inspector may at his discretion require all or part of the construction to cease until approval of the necessary modification or change has been obtained in the same manner as the original approval.

- J. No new OWTS shall be placed in operation nor shall any new building requiring such system be occupied until a certificate shall have been issued indicating that such system has been constructed in compliance with the terms of the approval issued and the requirements of this code. Such certificate of completion may be issued by the commissioner or by any building or plumbing inspector of a local municipality within the Health District duly authorized by the commissioner so to do. Such certificate of completion may be issued upon receipt of written certification by a professional engineer, registered architect or land surveyor, licensed to practice in the State of New York, stating that the system has been installed under his supervision as shown on plans submitted with such certification in accordance with the terms of the approval and the requirements of this code.
- K. In the event of the failure of any onsite wastewater treatment system installed under the approval of the commissioner or otherwise, the owner of the building or structure served thereby shall forthwith cause an investigation to be made of the reason for such failure and shall place the system in a proper and sanitary operating condition by any legal means within such period of time as may be determined by the commissioner to be reasonable to perform such work. During such investigation any portion of the system may be left open for inspection provided it is protected so as to effectively prevent direct contact with the sewage contents. The findings of the commissioner shall be presumptive evidence of the cause of failure. In the event the owner is not subject to legal process, the occupant of the premises shall be

responsible for the maintenance of the onsite wastewater treatment system in a satisfactory and sanitary condition during such occupancy.

- L. The issuance of any approval or certification pursuant to the provisions of this code shall not be construed as a guaranty by the commissioner or the Westchester County Department of Health or any employee or agent that the system has been properly constructed or will function satisfactorily, nor shall it in any way restrict the actions or powers of the commissioner in the enforcement of any law or regulation.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.727. Sewer connection required.

The owner of any habitable building or property used for human occupancy, employment, recreation or other purpose abutting upon any street, alley or right-of-way in which there is located a public sanitary sewer may be required to install at the expense of such owner suitable toilet facilities therein and to connect such facilities directly with the public sanitary sewer, in accordance with any local regulations of the municipality owning such sewer, within 90 days after date of an order in writing issued by the commissioner to do so, provided that such sewer is within 100 feet of any property line of such premises and is otherwise accessible. Where a public sanitary sewer is available no new arrangement shall be made other than an individual connection to serve each building site.

(Added 7-19-2001, eff. 7-19-2001)

Cross reference--Department of Environmental Facilities, Chs. 128 and 237; Environmental Coordinating Agency, Ch. 342; environmental facilities sewer ordinance, Ch. 824; sanitary sewer districts, Ch. 964.

Sec. 873.728. Sewer connections in sewerred areas.

Within the corporate limits of any city or village or within a town sewer district, no new habitable building shall be occupied unless served by a connection to the public sanitary sewer system, provided that a temporary onsite wastewater treatment system may be installed to serve an individual and isolated premises in accordance with the requirements of this code when the prior written consent of the municipal council or board or its duly authorized representative having jurisdiction over such sewer district is filed with the application. Such temporary facilities shall be approved only when a method of ultimately providing for a connection to a public sanitary sewer is indicated by the municipal governing council or board. This regulation shall not apply to a building site of 40,000 square feet or more in area which contains the usable area otherwise required.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.729. Building served by onsite wastewater treatment system.

Where a public sanitary sewer is not available and accessible, every habitable building hereafter constructed shall be properly plumbed and the building sewer shall be connected to an onsite wastewater treatment system complying with the provisions of this code, and no other means for the disposal of water-borne sewage shall be employed. When a public sanitary sewer shall become available to the property so served, a direct connection shall be made to such public sanitary sewer and any onsite wastewater

treatment system shall be abandoned and every tank or pit in such system shall be opened, emptied of any sewage and completely filled in with inert material.
(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.730. Protection of public sewers.

No person shall discharge or cause the discharge of any harmful or deleterious substance to any sanitary sewer or onsite wastewater treatment system so as to endanger the use of or the materials of construction of such sewer or system or so as to result in the stoppage or other failure of the sewerage system or subsequent sewage treatment, unless a permit for such discharge has been secured from the official agency having by law responsible charge of such sewerage system or sewage treatment works and such discharge conforms to the terms of such permit.

No unauthorized person shall break, damage, destroy, uncover, interfere with or commit any act which shall harm any structure, device, equipment or treatment process which is a part of a public sanitary sewerage system or sewage treatment works.
(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.731. Exposure of sewage.

No person shall construct, or maintain any privy, cesspool, sewage disposal system, onsite wastewater treatment system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to the atmosphere or on the surface of the ground or into any storm sewer or drain nor so as to endanger any source of supply of drinking water nor so as to discharge into any water course or body of water unless approval for such discharge shall have been issued therefor in accordance with the provisions of this code or the Public Health Law.

Complete daily records shall be kept of the operation of any sewage or waste treatment or chlorination as required under the provisions of any written approval for discharge issued therefor in accordance with the provisions of this code or the Public Health Law.
(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.732. Portable facilities on construction sites.

Any builder, contractor or other person employing men on the construction of any highway, building or structure shall provide or cause to be provided a portable toilet facilities at a convenient place upon the premises, or readily accessible thereto and the same shall be properly enclosed with the contents completely contained and removed weekly or after the end of each shift or working day or after the holding tank has become full.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.733. Disposal of offensive material.

- A. *Storage.* No person shall permit, deposit, store or hold any offensive material on any premises or place or in any building or structure unless such material is so treated, screened, covered or placed as not to create a nuisance detrimental to health. All

containers for the storage of such material shall completely confine the material, shall be rodent and insect proof and shall be kept in an inoffensive and sanitary condition at all times.

- B. *Privies.* No person shall hereafter construct any privy.. The commissioner may require the use of any existing privy to be discontinued, the contents removed, and the pit filled with inert material, whenever the use of such privy is no longer necessary or whenever such privy is located, constructed or maintained otherwise than in conformity to the provisions of the State or County Sanitary Code, or creates a nuisance. All privies shall be properly enclosed and screened, ventilated, lighted, kept in repair and shall be maintained at all times in a clean and sanitary condition. No privy shall be located or maintained within ten feet of any property line, within 25 feet of any public street or way or within 25 feet of any door or window of any building used for human occupancy. No such facilities shall be constructed under or within any building or structure intended or used for human occupancy.
- C. *Protection of facilities.* No person shall dispose of any substance into any plumbing line, sewer, privy or onsite wastewater treatment system other than that which said facility is designed or is intended to receive.
- D. *Burial or discharge.* No person shall dispose of any offensive material by burial unless it shall be buried at least 250 feet from any source of water supply or so disposed of at such other place that no water supply will be polluted and where nuisance will not be created, subject to regulations for the protection of public water supplies adopted pursuant to the provisions of the Public Health Law.
- E. *Garbage fed to hogs.* No garbage shall be fed to hogs unless said garbage has first been heated to at least 212 degrees Fahrenheit continuously for 30 minutes in apparatus and by methods approved by the commissioner.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.734. Removal and transportation of offensive material.

No person shall remove or transport or permit the removal or transportation of any offensive material except in such manner and in or by such conveyance as will prevent the creation of a nuisance or the loss or discharge of such material in any public place. All such material shall be so handled, covered or treated that it cannot escape or be accessible to rodents, flies or other insects or create a nuisance. All vehicles and implements used in connection therewith shall be kept in an inoffensive and sanitary condition and when not in use shall be so stored or kept as not to create a nuisance.

(Added 7-19-2001, eff. 7-19-2001)

Sec. 873.735. Permit required for collection.

No person, except a municipality and those required to obtain a permit under section 873.723(E), shall engage in the business of removing, collecting or transporting offensive material without first having obtained a permit therefor from the commissioner.

(Added 7-19-2001, eff. 7-19-2001; amended by L.L. No. 13-2007, § 12^{EN})

Sec. 873.736. Approval of disposal area.

- (a) The operation or maintenance of a dump for the disposal of refuse or offensive material is hereby declared to constitute a public health nuisance. No offensive material or combustible refuse shall be disposed of other than through the use of a sanitary landfill established, operated and maintained in accordance with standards established by the Commissioner of Health, or by use of an incinerator constructed, operated and maintained so as to comply with other requirements of the Sanitary Code or of the Public Health Law.
 - (b) Any person, including a municipal corporation, who uses or permits the use of any land or water as a public place of disposal of offensive material or combustible refuse by means of a sanitary landfill shall obtain a permit therefor from the commissioner.
 - (c) At any disposal area all material of any type whatsoever shall be deposited, controlled, treated, covered or handled in such a manner as not to create offensive odors, a breeding place for insects, vermin or rodents, the dissemination or dust or fires or the exposure of any person to toxic, poisonous or hazardous substances.
- (Added 7-19-2001, eff. 7-19-2001)

Sec 873.737. Onsite Wastewater Treatment System Capacity.

- A. No person shall allow or cause sewage flows to an onsite wastewater treatment system to exceed the design capacity of such system approved by the department.
- B. At the discretion of the commissioner, a property owner or lessee may be required either to measure sewage flows to an onsite wastewater treatment system or to document water usage at a frequency and method determined by the department, and shall submit reports of the measurements and any other information deemed necessary according to a prescribed schedule.

Sec.873.738 Onsite Wastewater Treatment System; Fee

Every submittal for written approval to undertake the construction of an onsite wastewater treatment system pursuant to the provisions of Article VIII, Section 873.726 of the Westchester County Sanitary Code shall be accompanied by a nonrefundable fee in accordance with a schedule established by the Commissioner.

Sec.873.739 Approval required for installation of sewage storage facilities.

No person shall undertake to construct any facility intended for the storage of water-borne sewage with respect to any building or structure or premises thereby served, without first having obtained the written approval from the commissioner. Such facilities shall be constructed in accordance with the standards, rules or regulations duly promulgated by the commissioner and with the terms or conditions of approval issued therefore or approved amendments thereto. This paragraph applies to constructed stationary sewage containment and shall not apply to sewage holding tanks on recreational vehicles or boats and commercial portable toilet facilities with holding tanks.

FILED
NEW YORK STATE DEPT. OF HEALTH
[Signature]
DATE: 10-24-08