

At the Farmington Town Board Meeting, held in the Town Hall or by Phone/Video Conferencing on the 23rd day of January, 2024, at 7:00 PM, there were:

PRESENT: Peter Ingalsbe – Supervisor
Mike Casale – Councilman
Steven Holtz – Councilman
Nate Bowerman – Councilman-necessarily absent
Ron Herendeen – Councilman
Michelle Finley – Town Clerk

Also present in person: **Tim Ford** – Highway and Parks Superintendent, **Robin MacDonald** – Acting Water & Sewer Superintendent, **Dan Delpriore** – Code Enforcement Officer, **Ron Brand** – Director of Planning & Development, **Ed Hemminger** – Planning Board Chairman, **Bill Davis** – MRB Group

Also present by telephone/video conferencing were: **John Piper, Michael Phillips** – resident

PUBLIC HEARINGS: Local Law to override the tax levy limit established in General Municipal Law §3-c

Supervisor Ingalsbe opened the public hearing at 7:00 p.m. The Town Clerk read the legal notice. Supervisor Ingalsbe stated that this local law was for 2025 and it is better to pass this now in case they are over, so they don't get a fine. Supervisor asked if anyone wanted to speak for or against this proposed local law, hearing none, he closed the public hearing at 7:02 p.m.

APPROVAL OF MINUTES:

A motion was made by **Councilman Holtz** and seconded by **Councilman Casale** that the minutes of the January 9, 2024, Town Board Meeting and the January 9, 2024, Organizational Meeting, previously given to members for review, be approved. All Voting "Aye" (Holtz, Herendeen, Casale, and Ingalsbe). Motion **CARRIED**.

PRIVILEGE OF THE FLOOR:

PUBLIC CONCERNS: None.

REPORTS OF STANDING COMMITTEES:

Public Works Committee: Councilman Holtz reported:

1. Discussed Flash Mixer prices.
2. New belts for the Belt Press have been ordered.
3. New flow meters installed.
4. Manhole inspections in Cobblestone, twenty buried manholes have been located.
5. Video of the sanitary sewer on Fallow Lane and Fawn Meadow have been reviewed.
6. Service line information for L/C survey is moving along. Also compiling a list of places the town will need to start excavating.
7. Discussed resolutions on agenda.

Highway & Parks:

1. Highway- equipment maintenance, plowing and salting roads, picking up and cutting trees from the recent windstorm, GPS was installed, and they were able to get the tree roots cut out of the pipes on Flaxen Drive with help from the water department.
2. Parks- plowing and salting parking lots and sidewalks, servicing summer equipment, repairing and painting picnic tables and benches, and cutting and cleaning up trees on repaired trails that fell during the windstorm.

Town Operations Committee: Councilman Casale reported:

1. Discussed resolutions on agenda.
2. The Town Board will be conducting a workshop with the applicant for the proposed Whitestone Incentive Zoning project on January 30th at 4 p.m.
3. Nothing to report on the Farmington Market Center project.
4. Town Staff have completed their edit of the Town of Farmington narrative, including a list of priority projects and the Community Capability Assessments that are to be included in the 2024 Edition of the Ontario County All Hazards Mitigation Plan.
5. Agricultural Advisory Committee has requested a preliminary draft of the overlay district regulations to be discussed at their next meeting on March 21, 2024. In addition, they have requested a review of the appointment procedure for members.

Town Finance Committee: Supervisor Ingalsbe reported: None.

Town Public Safety Committee: Councilman Holtz reported: None.

REPORTS OF TOWN OFFICIALS:**Supervisor Peter Ingalsbe reported:**

1. Town and County Taxes and water/sewer bills are due at the end of the month.
2. Discussed external audit.
3. Looking for part-time Clerk of the Boards.

Highway & Parks Superintendent Tim Ford reported:

1. Updated on street lights- Tambe Electric was able to get it working.

Town Clerk Michelle Finley reported:

1. Busy collecting Town and County Taxes and Water and Sewer bills.

Acting Water & Sewer Superintendent Robin MacDonald reported:

1. Busy hauling dirt.

Code Enforcement Officer Dan Delpriore reported:

1. Busy with many applications coming in.
2. Busy with getting Assessor's records out for grant.
3. Busy with working on year end reports.

Director of Planning and Development Ron Brand reported:

1. Town Operations Report available on website and filed with the Town Clerk.
2. Discussed residents Parks and Recreation Master Plan survey- postcards are going out around February 1st.
3. Farmington Market Center – no information to move forward.
4. TAP Sidewalk project is out for formal bidding.
5. Discussed 1816 Meeting House – has received a lot of grant funding.
6. The fire department is working with the engineering firm to review and identify those projects that are applicable in the Hazard Mitigation Plan that was submitted by the town for approving the facilities at Station 2 on Hook Road.
7. Encourages everybody to look at the town operations report for all the projects happening in the town.

Assessor Donna LaPlant reported: None.**Town Engineer Bill Davis reported:**

1. Update on projects: Brickyard Road Tank, Digester #2, and Farmington Grove Park.

Fire Chief reported: None.**Planning Board Chairman Ed Hemminger reported:**

1. Next meeting – Fowler Family Trust, Paddock Landing Project, and Creekwood Phase 2 project.

Zoning Board of Appeals reported: None.**Recreation Advisory Board Bryan Meck reported: None.****Recreation Director Mark Cain reported: None.****Ontario County Planning Board Member reported: None.****Conservation Board Chairperson reported: None.****Town Historian Donna Herendeen reported: None.****Swap Shop Update: Councilman Holtz reported: None.****Agricultural Advisory Committee Chairman Adams: None.****COMMUNICATIONS:**

1. 2024 Exemption Questionnaire.
2. Letter to the Town Supervisor from Rick Herman, President, of Rochester Home Builders Association. Re: Economic Forecast Forum.
3. Letter to the NYS Comptroller from the Town Supervisor. Re: Request for extension for filing of the 2023 AUD.
4. Letter to the Town Supervisor from Kori Franklin of Ontario County Real Property Tax Services. Re: 2024 Ontario County Schedule of Taxes.

5. Memo to Polling Place Proprietors from the Ontario County Board of Elections. Re: Confirmation of use of facilities for 2024 Elections.
6. Letter to Katie Steger, Program Director of Capital Projects from NYS Council on the Arts, from the Town Supervisor. Re: 1816 Quaker Meetinghouse Museum Restoration Project.
7. Decision of Hearing Officer. Re: 5845 Green Road, Farmington, NY.
8. Letter to Thomas Delaney of NVR Incorporated. Re: Parking restrictions along Ackerman Way, within Section 8S, Auburn Meadows Subdivision Tract.
9. Email to Joseph Szabo of NYPA from the Town Supervisor. Re: Farmington LED Street Lighting – Final Inspection.
10. Letter to the Town from Travelers. Re: Protective Liability Policy.
11. Letter to the Town Clerk from Mary Gates of Ontario County Department of Finance. Re: Report of all monies from the Ontario County Treasurer to the Supervisor for 2023.
12. Memo to the Authorized Representatives of NYSRF and/or Water Infrastructure Improvement (WIIA) Program Projects from Rebecca Walker of NYS EFC. Re: Request to modify an EFC Funding Agreement.
13. Letter to the Town Supervisor from Patricia Verbridge of NYS Supreme and County Courts. Re: Small Claims Assessment Review for 5845 Green Road.
14. Letter to Jeffrey Gerstner of Gerstner Medical from the Code Enforcement Officer. Re: Gerstner Medical Final Site Plan Approval, File PB#1103-21, Quentonshire Drive.
15. Memo to the Town Supervisor from Kori Franklin of Ontario County Real Property Tax Services. Re: Return of Small Claims Filing Fee.
16. Certificates of Liability Insurance from: NVR, Inc.; Loyal Nine Development Corp.; Fibertech Environmental Services, Inc.
17. Certificate of Workers' Compensation Insurance from: Fibertech Environmental Services, Inc.
18. Certificate of Disability and Paid Family Leave Benefits Insurance from: Concord Electric Corp.

REPORTS & MINUTES:

1. Monthly Report – Judge Lew – December 2023.
2. Manchester Fire Department Incident Run Log – December 2023.
3. Monthly Report – Judge Thomas – December 2023.

ORDER OF BUSINESS:

RESOLUTION #58-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF FARMINGTON OF LOCAL LAW NO. 1 OF 2024

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Farmington for a public hearing to be held by said Town Board on January 23, 2024, at 7:00 p.m. at Farmington Town Hall, 1000 County Road 8, Farmington, New York, to hear all interested parties on a proposed Local Law to override the tax levy limit established in General Municipal Law §3-c; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Farmington, on January 14, 2024 and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on January 23, 2024, at 7:00 p.m. at the Farmington Town Hall, 1000 County Road 8, Farmington, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, the Town Board of the Town of Farmington, after due deliberation, finds it in the best interest of the Town of Farmington to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Farmington hereby adopts said Local Law No. 1 of 2024, entitled, “A local law to override the tax levy limit established in General Municipal Law §3-c”, a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Farmington, and to give due notice of the adoption of said local law to the Secretary of State of New York.

All Voting “Aye” (Ingalsbe, Holtz, Casale, and Herendeen), the Resolution was **CARRIED**.

Local Law No. 1 of the year 2024

A local law to override the tax levy limit established in General Municipal Law §3-c

Be it enacted by the Town Board of the Town of Farmington as follows:

Section 1: Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Farmington, County of Ontario, pursuant to General Municipal Law §3-c, and to allow the Town of Farmington to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2025 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2: Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by a vote of sixty percent (60%) of the town board.

Section 3: Tax Levy Limit Override

The Town Board of the Town of Farmington, County of Ontario, is hereby authorized to adopt a budget for the fiscal year 2025 that requires a real property tax levy in excess of the limit specified in General Municipal Law §3-c.

Section 4: Severability

If any clause, sentence, paragraph, section, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part of this local law or in its application to the person, individual, firm or corporation, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION #59-2024:

Councilman Herendeen offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION

WHEREAS, the Town Board of the Town of Farmington is the governing body of the special districts and/or fire districts/fire protection districts set forth in the Schedule attached hereto and made a part hereof; and

WHEREAS, it is the intent of this resolution to override the limit on the amount of real property taxes that may be levied by the Town of Farmington, on behalf of the aforesaid special districts and/or fire districts/fire protection districts, pursuant to General Municipal Law §3-c, and to allow the Town of Farmington, on behalf of the aforesaid special districts and/or fire districts/fire protection districts, to adopt a budget for the fiscal year 2025 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c; and

WHEREAS, this resolution is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body, on behalf of special districts and/or fire districts, to override the tax levy limit for the coming fiscal year by the adoption of a resolution approved by a vote of sixty percent (60%) of said governing body.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Farmington, County of Ontario, is hereby authorized to adopt a budget for the fiscal year 2025 on behalf of the special districts and/or fire districts/fire protection districts set forth in the Schedule attached hereto and made a part hereof that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

All Voting "Aye" (Ingalsbe, Holtz, and Casale, Herendeen), the Resolution was **CARRIED**.

RESOLUTION #60-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Holtz**:

RESOLUTION AUTHORIZING ADDITIONAL ORGANIZATIONAL CONSULTING SERVICES

WHEREAS, John Piper has provided organizational consulting services in the past, and

WHEREAS, he has extensive experience in coaching staff and leadership as well as assisting private and public entities as a strategic planning facilitator and assisting organizations in setting goals, objective and achieving measurable results, therefore be it

RESOLVED, that the Town Board of the Town of Farmington authorizes additional organizational consulting services from John Piper at an amount not to exceed \$950.00 per month, and be it further

RESOLVED, that the Town Clerk provide copies of this resolution to the Confidential Secretary and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #61-2024:

Councilman Herendeen offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION RESCHEDULING THE JUNE 25, 2024 TOWN BOARD MEETING

WHEREAS, the Federal Primary Election will be held on a normally scheduled Town Board meeting date, June 25, 2024, now therefore

BE IT RESOLVED, that the meeting of June 25, 2024 at the Town Hall is rescheduled to June 26, 2024 - the following day - at the same location and time, and be it

FINALLY RESOLVED, that the Town Clerk provide copies of this resolution to Town Department Heads the Town's legal newspaper.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #62-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION APPROVING A PARTIAL RELEASE OF FUNDS (RELEASE NO. 2) FROM THE LETTER OF CREDIT FOR WORK WITHIN PHASE 1 OF THE HATHAWAY'S CORNERS PROJECT, THE VILLAS AT HATHAWAY'S CORNERS, IN THE TOTAL AMOUNT OF \$76,788.49

WHEREAS, the Farmington Town Board (hereinafter referred to as Town Board) has been informed by the Planning Board Chairperson, that the Town Planning Board (hereinafter referred to as Planning Board) has taken Action, at their January 17, 2024, meeting, to recommend approval of a partial release of funds (Release No.2) from the Letter of Credit for the above referenced project, in the total amount of \$ 76,788.49; and

WHEREAS, the Town Board has also been provided a copy of the Town Engineer's letter dated January 9, 2024, which includes the completed Forms G-1.1 and G-2.0, the Letter of Credit/Surety Release Forms, in the amount specified above herein and the Applicant's Engineer's (BME Associates) Estimate of Value for site improvements that have been completed; and

WHEREAS, the Town Clerk has completed her review of the dollar amounts specified herein for the partial release (Release No. 2) finding them to be accurate.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board does hereby acknowledges the above specified Planning Board's recommendation for a partial release of funds (Release No. 2), from the established Letter of Credit for said project, in the total amount of \$ 76,788.49; and recommends approval thereof.

BE IT FURTHER RESOLVED, that the Town Clerk, having verified the total amount for this Letter of Credit is \$ 637,807.37, with \$166,992.38 remaining after partial release No. 2, to complete the project.

BE IT FURTHER RESOLVED, that the Town Clerk, is to provide certified copies of this resolution to: Matt Heilmann, Town Construction Inspector; Tim Ford, Town Highway & Parks Superintendent; Robin MacDonald, Acting Town Water & Sewer Superintendent; Lance S. Brabant, CPESC, Director of Planning Services, MRB Group, D.P.C.; Dan Delpriore, Town Code Enforcement Officer; and Ronald L. Brand, Town Director of Planning and Development.

FINALLY BE IT RESOLVED, that a certified copy of this resolution is to be issued to the Applicant, James Grant, The Marrano/Marc Equity Corporation, 2730 Transit Road, West Seneca, New York 14224; the Applicant's Project Manager, Eric Honec, The Marrano/Marc Equity Coporation, 2730 Transit Road, West Seneca, New York 14224; the Applicant's Engineer, Ryan Destro, P.E., BME Associates, 10 Lift Bridge Lane East, Fairport, New York 14450; and Tom Danks, Project Manager, BME Associates, 10 Lift Bridge Lane East, Fairport, New York 14450.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #63-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION TO AWARD A BID TO HUDSON MACHINERY LLC 37 W. WASHINGTON AVE PEARL RIVER, NY 10965

WHEREAS The Town of Farmington Acting Water & Sewer Superintendent recommends the award of the bid from Hudson Machinery LLC on January 23, 2024, for the vacuum trailer with valve exerciser and alternate tools; and

WHEREAS, the Acting Water and Sewer Superintendent advertised for bids on December 31, 2023; and

WHEREAS, on January 9 at 10 a.m., one bid for the vacuum trailer with valve exerciser with alternate tools was received with no other vendors submitting a bid for this package; and

WHEREAS, the Acting Water and Sewer Superintendent seeks to award the Bid to Hudson Machinery LLC At a cost not to exceed \$136,081.00 which includes two alternate tools with funding to be expended from budget lines SS8130.2 (\$34,020) and SW18340.2 (\$102,061); now therefore

BE IT RESOLVED, that a copy of this resolution will be supplied from the Town Clerk to the Acting Water and Sewer Superintendent and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #64-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING WAIVING THE MERTENSIA LODGE FEES FOR THE KIWANIS ALL STARS RELAY FOR LIFE

WHEREAS, the Kiwanis All Stars Relay for Life Team are hosting a fundraiser on April 20th, 2024; and

WHEREAS, the Kiwanis All Stars Relay for Life Team is requesting the fees be waived, therefore be it

RESOLVED, the Farmington Town Board authorizes the waiving of the fees for the use of the Mertensia Lodge on April 20th for the Kiwanis All Stars Relay for Life fundraiser, and be it

FURTHER RESOLVED, that the Town Clerk provide a copy of this resolution to Barbara Years at byears5117@windstream.net and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #65-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION ADOPTING LOCAL LAW NO. 2 OF 2024, AMENDING CHAPTER 126 OF THE FARMINGTON TOWN CODE, ENTITLED "INDIVIDUAL ON-SITE WASTEWATER TREATMENT SYSTEMS;" AND DIRECTING THE FILING OF SAID LOCAL LAW WITH THE NEW YORK STATE SECRETARY OF STATE

WHEREAS, the Farmington Town Board (hereinafter referred to as Town Board) on Tuesday December 12, 2023, conducted a public hearing upon the above referenced amendment to Chapter 126 of the Town of Farmington Town Code; and

WHEREAS, the Town Board, at the meeting on December 12, 2023, closed the public hearing upon said amendment to Chapter 126 of the Town of Farmington Town Code; and

WHEREAS, the Town Board on December 12, 2023, decided to not adopt said local law that evening and to wait until after the start of the new year (2024) in an effort to avoid previous filing problems incurred with the New York State Secretary of State, when filing a local law at the end of a calendar year, which in turn resulted in the Town Board recalling those local laws and renumbering them.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby adopts the draft Local Law for amending Chapter 126 of the Town of Farmington Town Code, dated November 28, 2023.

BE IT FURTHER RESOLVED, that the Town Board does hereby number said Local Law to be known as Local Law No. 2 of 2024.

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to complete paragraph number one of the State's Local Law Filing Form, certify said local law and then to file Local Law No. 2 of 2024 with the New York State Secretary of State.

BE IT FURTHER RESOLVED, that the certified copy of said Local Law No. 2 of 2024 is hereby made an attachment to this resolution.

BE IT FINALLY RESOLVED, that upon receipt of the filing with the New York State Secretary of State, the Town Clerk is to provide notice thereof to the Town Code Enforcement Officer; the Town Director of Planning and Development; and to General Code Publishers requesting amendment of Chapter 126 into the Town Code Books and providing copies thereof to the Town.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

Local Law No. 2 of the year 2024

A Local Law Amending Chapter 126 of the Town of Farmington Code, entitled "Individual On-Site Wastewater Treatment Systems."

Be it enacted by the **Town Board** of the **Town of Farmington** as follows:

Section 1. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-2 Purpose is hereby amended by deleting the existing Section 126-2 Purpose and replacing in its entirety the following:

§126-2 Purpose.

The purpose of this chapter is to preserve and protect public health and the quality of surface and ground water in the Town of Farmington by mandating the adequate performance of on-site wastewater treatment systems to prevent health hazards and adverse impacts upon the environment. Specifically, this chapter is intended to ensure wastes treated by on-site wastewater treatment systems:

- a. Do not pollute or contaminate any surface water or groundwater source utilized for domestic drinking water supply or recreational purposes; and
- b. Are not accessible to any carriers of disease; and
- c. Do not give rise to a nuisance due to odor or unsightly appearance; and
- d. Are not a source of nutrient pollution and do not contribute to excessive aquatic weed growth or harmful algal blooms in streams or other bodies of water.

Section 2. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-3 (Reserved), is hereby deleted in its entirety and replaced in its entirety as follows:

§126-3 Authority.

Enactment of this chapter is pursuant to Article 2 of New York State Municipal Home Rule Law and Article 3 of New York State Public Health Law.

Section 3. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-4 Authority, is hereby deleted in its entirety and replaced in its entirety to read as follows:

§126-4 Applicability.

This chapter shall govern the treatment of sewage by regulating the operation of all on-site individual wastewater treatment systems (hereinafter referred to as an "on-site wastewater treatment system"); and the maintaining of operating records for all on-site wastewater treatment systems within the Town of Farmington.

Section 4. Chapter 126, Article I, Title, Purpose, Authority and Terminology, Section 126-5 Definitions and word usage is hereby deleted in its entirety and is hereby further amended by adding the following definitions in alphabetical order:

ADEQUATELY FUNCTIONING

An on-site wastewater treatment system that meets the design standards contained in this Chapter of the Town Code and shows no evidence of failure. Such system shall be periodically inspected and found not posing a public health threat by virtue of meeting the criteria specified in §126-20 above herein. For this chapter, an "adequately functioning" system shall always include a watertight vessel.

AUTHORITY HAVING JURISDICTION

The Code Enforcement Officer, or other official(s) designated by the Farmington Town Board, or other regulatory agency, having the responsibility to enforce the provisions of this chapter shall include, but not be limited to, the New York State Department of Health (NYSDOH), the Ontario County Soil and Water Conservation District (OCSWCD), or the New York State Department of Environmental Conservation (NYSDEC).

BEDROOM AND/OR BEDROOM EQUIVALENT

For determining the size of an on-site wastewater treatment system, “bedroom and/or bedroom equivalent” shall mean a room with certain features characteristic of bedrooms, generally, which include, but are not limited to the following:

- a. Reasonable access to a full bathroom on the same floor, or within a half floor if the dwelling unit is a split level; or
- b. Adequate means to close off the room for privacy; or
- c. A minimum of 70 square feet in size.

CERTIFIED INSPECTOR

Includes Ontario County Soil and Water District personnel or personal approved by the authority having jurisdiction that is part of the New York State On-site Wastewater Treatment Training Network (OTN).

CHANGE OF USE

A use of land with an associated building and wastewater treatment system that is modified to likely cause an increase in hydraulic loading (e.g., change from an existing commercial use to a residential use; change of an existing residential use to commercial use; change of a commercial use to a different type of commercial use, etc.). A change of use shall also include the removal and replacement of a manufactured or mobile home dwelling.

CODE ENFORCEMENT OFFICER

The Town Official as is further defined in Chapter 74, of the Town of Farmington Town Code.

CONVEYANCE OF REAL PROPERTY

The transfer of the title of real estate, in the form of a deed or other legal instrument, filed in the Office of the Ontario County Clerk, which involves none of the transferors of such deed or other legal instrument remaining in possession of such real estate. Non-arm’s length transfers of title, transfers of an interest in title where one or more of the transferors remain in possession of such real estate and transfers of title to a spouse and/or one or more children, including transfers from a transferor’s estate, shall not be considered conveyance of real property.

CONVEYANCE OF REAL PROPERTY

The transfer of the title of real estate from on to another, in the form of a deed or other legal instrument, filed in the Office of the Ontario County Clerk.

DESIGN PROFESSIONAL

A person licensed or registered in the State of New York and authorized by New York State Education Law to design the systems described in 10 NYCRR Appendix 75-A.

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

Premanufactured structures that provide enhanced treatment of wastewater prior to discharge to a subsurface soil absorption area.

FAILURE

A condition existing within an on-site wastewater treatment system which causes the system to function in an unsanitary manner and which results in the discharge of untreated or partially treated wastewater onto ground surface, into surface water, into the groundwater, or which results in failure of building plumbing to discharge properly. Meeting any of the following criteria shall constitute failure:

- a. Lack of a watertight vessel (i.e., septic, aerobic treatment unit, etc.) prior to any subsurface treatment/absorption system.
- b. There is a discharge of effluent directly or indirectly to the ground surface and ponding, surface outbreaks or saturated soils are over the absorption area.
- c. “Cheater” or direct pipe surface discharge to include surface discharge of greywater.
- d. A dye test results in the presence of dye on the ground surface.
- e. There is a backup of sewage into the home, building or facility as a result of an overloaded or clogged absorption area.
- f. The septic tank requires pumping more than four times per year and/or sewage is observed running back into the septic tank from the absorption area during pumping.

GREYWATER

All wastewater from a building except from flush toilets and urinals.

HOLDING TANK

A water-tight tank that holds raw sewage and untreated effluent without an outflow. All Holding Tanks shall be equipped with an alarm (audible and visual) located in a conspicuous place to indicate when pump out is necessary. The property owner shall have a contract for service with a New York State Department of Environmental Conservation (NYSDEC) permitted septage waste transporter to pump the holding tank as needed.

LOCAL GOVERNING BODY

The municipal corporation charged with authority to act as the local Board of Health as defined by New York State Public Health Law.

MINOR ALTERATIONS

Routine maintenance and repairs to an approved on-site wastewater treatment system, including but not limited to the following: replacement of a septic tank cover or baffles, replacement of distribution box covers, replacement of cracked pipes, pumping of the septic tank, and replacement of mechanical pumps and devices. "Minor Alterations" shall not include replacement of a septic tank, distribution box, or any addition, alteration or rearrangement of water distribution or drainage piping. Like examples of "Minor Alterations" not specifically listed in this definition shall be determined by the authority having jurisdiction.

NEW CONSTRUCTION

Any building constructed or placed on an undeveloped site requiring the installation of a wastewater treatment system and currently not utilizing the same.

ON-SITE WASTEWATER TREATMENT SYSTEM

A complete system of piping, watertight vessels or other facilities for the on-site collection, transport and treatment of sewage.

ON-SITE WASTEWATER TREATMENT SYSTEM PERMIT

A written permit issued by the Code Enforcement Officer.

OTN INSPECTOR

Industry professional who has been trained and has successfully completed the 7 ½ hour course for inspecting existing residential on-site wastewater treatment systems and has received a registration number from the New York Onsite Wastewater Treatment Training Network (OTN) indicating such. If the OTN stops registering inspectors, the authority having jurisdiction will work with the Code Enforcement Officer to administer a training program and publish a list of approved inspectors for the public.

SEWAGE

The combination of human and household waste with water, which is discharged to the plumbing system, including the waste from a flush toilet, bath, shower, sink, lavatory, dishwashing or laundry machine, or the water-carried waste from any fixture, equipment of machine.

SITE DESIGN AND DEVELOPMENT CRITERIA MANUAL

The manual adopted by and maintained by the Farmington Town Board providing design and criteria for approving development within the Town of Farmington. As pertaining to the provisions in this Chapter (126) of the Farmington Town Code, Section 2, Design Criteria, Subsections A and B pertaining to the design criteria for operating and maintaining on-site wastewater treatment systems within the Town of Farmington.

SUBSTANDARD SYSTEM

On-site wastewater treatment system that does not meet the design standards specified in this Chapter of the Farmington Town Code but shows no evidence of failure.

WORK AREA

That portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work area excludes other portions of the building where incidental work entailed by the intended work must be performed and positions of the building where work not initially intended by the owner is specifically required by this Chapter.

Section 5. Chapter 126, Article II, General Regulations and Requirements, Section 126-6 Prohibitions, Subsections A, B, and C, are hereby amended by deleting these subsections in their entirety and replacing them in their entirety as follows:

§126-6 Prohibitions.

- A. It shall be unlawful to install, construct, alter, replace, enlarge, extend, or otherwise modify any existing wastewater treatment system until an on-site wastewater treatment system permit issued by the authority having jurisdiction has been filed with the Town Code Enforcement Officer.
- B. It shall be unlawful to change the use of real property or any building thereon, convey real property, expand a building or dwelling by increasing the number of bedrooms and/or bedroom equivalents, or increase the building or dwelling square footage by greater than 25% of the square footage, or alter a building or dwelling such that the

- C. work exceeds 50% of the aggregate area of the existing building without an inspection of the existing on-site wastewater treatment system by a certified inspector, pursuant to Article II of this chapter.
- D. It shall be a violation of this chapter to use any on-site wastewater treatment system that is in failure.

Section 6. Chapter 126, Article II, General Regulations and Requirements, Section 126-6 Prohibitions, Subsections A, B, C and D, are hereby further amended by adding new Subsections 126-6 E and F to read in their entirety as follows:

§126-6 Prohibitions.

- E. There shall be no activities or conditions permitted which would interfere with the proper operation of on-site wastewater treatment systems. It is specifically prohibited to construct or place anything that would impact the absorption area including, but not limited to, buildings, structures, paving, trees or shrubs, fill, the parking or crossing by vehicles, swimming pools, driveways, or parking areas.
- F. All new on-site wastewater treatment systems or modifications to existing on-site wastewater treatment systems shall be designed by a New York State licensed design professional.

Section 7. Chapter 126, Article II, General Regulations and Requirements, Section 126-7 Design standards for new on-site wastewater treatment systems, Subsections A and B are hereby deleted in their entirety and replaced in their entirety to read as follows:

§126-7

Design standards to meet the requirements of this chapter are as follows:

- a. The Design Criteria contained within Section 2, 2.01, A & B, Sewage Disposal Systems, Town of Farmington Site Design and Development Criteria.
- b. New York State Department of Health's Appendix 75-A, Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR) for systems with a design load of less than 1,000 gallons per day.
- c. New York State Department of Environmental Conservation's New York State Design Standards for Intermediate Sized Wastewater Treatment Systems for systems with a design load equal to or greater than 1,000 gallons per day.
- d. In addition to the New York State design standards, the following standards shall also be met for all dwellings:
 - (1) The number of bedrooms and/or bedroom equivalent for design loaded purposes, as follows:
 - (a) Minimum design: two (2) bedrooms.
 - (b) Two (2) bedrooms and/or bedroom equivalents of up to 1,200 square feet of occupiable living space shall be designed as a two-bedroom design load.
 - (c) Three (3) bedrooms and/or bedroom equivalents of 1,201 to 2,250 square feet of occupiable living space shall be designed as a three-bedroom design load.
 - (d) Four (4) bedrooms and/or bedroom equivalents of 2,251 to 3,300 square feet of occupiable living space shall be designed as a four-bedroom design load.
 - (e) Five (5) bedrooms and/or bedroom equivalents or 3,301 to 4,050 square feet of occupiable living space shall be designed as a five-bedroom design load.
 - (f) More than five (5) bedrooms and/or bedroom equivalents or greater than 4,050 square feet of occupiable living space: 110 gallons per day per additional bedroom and/or bedroom equivalent shall be added to the design load.
 - (g) Final determination of design loading shall be by the authority having jurisdiction.
 - (2) Replacement of septic tanks and distribution boxes shall require a building permit but do not need to be designed by a design professional provided such repairs are made to replace existing failed conditions. All alterations to the absorption field shall also require a building permit and a design completed by a design professional.
 - (3) In addition to the approvals required herein, a review and approval by the New York State Department of Health (NYSDOH), the New York State Department of Environmental Conservation (NYSDEC) or the Ontario County Soil and Water Conservation District may be required.

Section 8. Chapter 126, Article II, General Regulations and Requirements, Section 126-8 Design standards for existing on-site wastewater treatment systems, Subsections A and B are hereby deleted in their entirety and replaced in their entirety to read as follows:

§126-8 Requirements for substandard on-site wastewater treatment systems.

- (1) The parcel owner shall follow the procedures in Article IV of this chapter to bring their on-site wastewater treatment system into compliance to the greatest extent possible. The authority having jurisdiction shall have the ability to grant a local waiver to the requirements of the law on substandard lots if the applicant can prove that they have met the requirements to the greatest extent. The authority having jurisdiction shall take the following into consideration when determining if the on-site wastewater treatment system meets the design standards of §126-21.1 to the greatest extent possible:
 - (a) Previous approvals and/or specific waivers granted by NYSDOH, or the watershed inspectors; and
 - (b) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient, and/or other pollutant loading; and
 - (c) The ability to utilize the latest technology and the ability to maintain that technology; and
 - (d) Existing lot line setbacks and area requirements as related to individual properties; and
 - (e) The extent to which the limitations are self-created.

(2) Once the authority having jurisdiction has determined that the substandard system meets the design standards of § 126-21.1 to the greatest extent possible, the authority having jurisdiction shall provide the parcel owner with a building permit and a letter of acknowledgement stating that the parcel owner is meeting the design standards of § 126-21.1 to the greatest extent possible.

(3) Based on the system inspection, the authority having jurisdiction shall notify parcel owners in a written letter that their system is substandard. The letter will list all components of the system that are substandard. The property owner will not be required to upgrade the system unless it is in failure.

Section 9. Chapter 126, Article II, General Regulations and Requirements, Section 126-10 Site limitations, Subsections A, B, C and D are hereby deleted in their entirety and this Section is replaced in its' entirety to read as follows:

§126-10 Requirements for failed or substandard systems.

- A. On parcels with existing substandard on-site wastewater treatment systems that have topographic, physiographic, lot size or other site limitations that do not allow for meeting the design standards in §126-21.1, the authority having jurisdiction shall require the parcel owner to meet the design standards within §126-21.1, to the greatest extent possible.
- B. The parcel owner shall follow the procedures in Article IV of this chapter to bring their on-site wastewater treatment system into compliance to the greatest extent possible. The authority having jurisdiction shall have the ability to grant a local waiver to the requirements of the law on substandard lots if the applicant can prove that they have met the requirements to the greatest extent possible. The authority having jurisdiction shall take the following into consideration when determining if the on-site wastewater treatment system meets the design standards of § 126-7 to the greatest extent possible:
 - (1) Previous approvals and/or specific waivers granted by NYS-DOH, or the watershed inspectors; and
 - (2) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient, and/or other pollutant loading; and
 - (3) The ability to utilize the latest technology and the ability to maintain that technology; and
 - (4) Existing lot line setbacks and area requirements as related to individual properties; and
 - (5) The extent to which the limitations are self-created.

C. Once the authority having jurisdiction has determined that the substandard system meets the design standards of § 126-7 to the greatest extent possible, the authority having jurisdiction shall provide the parcel owner with a letter of acknowledgement stating that the parcel owner is meeting the design standards of § 126-7 to the greatest extent possible. This letter of acknowledgement shall then be provided to the Town Code Enforcement Officer who shall issue a Building Permit to allow corrections to be made, in accordance with the design standards set forth within said letter of acknowledgement, for the substandard system. Said Building Permit shall be conditioned upon site inspections during construction by the authority having jurisdiction and shall remain valid for a period of six months. Upon completion of all components of the previously determined substandard system a final inspection report shall be provided by the authority having jurisdiction to the Town Code Enforcement Officer. A Certificate of Compliance shall then be issued to the property owner(s).

Section 10. Chapter 126, Article II, General Regulations and Requirements, Section 126-11 Maintenance and protection, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-11 Maintenance of enhanced on-site wastewater treatment systems.

A. All enhanced treatment systems (ETSs) are required to have a service contract with a certified manufacturer's representative, which provides for annual inspections or inspections at intervals specified by the manufacturer, whichever is stricter, as well as subsequent necessary adjustments by a certified manufacturer's representative for the life of the system. Within 10 days of an inspection, a written report, which documents the results of the inspection and provides a written certification from the certified manufacturer's representative that the system is fully functional and operating properly and is under a service contract, shall be sent to the authority having jurisdiction.

Failure to hold a service contract, complete the required inspections, send the required inspection reports to the authority having jurisdiction, and/or complete the certified manufacturer's representative's maintenance schedule is a violation of this chapter and shall be punishable according to Article VII of this chapter.

B. Septic Tanks. All tanks shall meet the design standards contained in New York State Department of Health's Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR). The owner shall have a contract for service with a NYSDEC-permitted septage waste transporter to pump the septic tank as needed. A copy of all pump-out records shall be submitted to the authority having jurisdiction. At no time will sewage discharge from the tank to the surface, ground, or surface water be allowed.

Section 11. Chapter 126, Article II, General Regulations and Requirements, Section 126-12 State or other agency approvals, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§ 126-12 Inspections of existing on-site wastewater treatment systems.

- A. The authority having jurisdiction shall require an on-site inspection of an existing on-site wastewater treatment system as follows:
- (1) Prior to a change of use or transfer of title to the property, the owner of the property shall arrange for an on-site wastewater treatment system inspection before any change of use or change of ownership is undertaken. The authority having jurisdiction shall determine whether the change represents an increased hydraulic loading to the system.

In instances where a site plan approval, special use permit, conditional use permit, or zoning variance is required, the authority having jurisdiction shall incorporate the on-site wastewater treatment system inspection report into the appropriate review process of the Planning Board or Zoning Board of Appeals.
 - (2) Prior to a conveyance of real property, the owner of the parcel shall arrange for an on-site wastewater treatment system inspection. For conveyance of real property, the inspection must be completed at least 10 days and not more than six (6) months prior to the transfer of property. The inspection report must be filed with the authority having jurisdiction, the Town Development Office, the current owner, and the proposed new owner prior to the transfer of property. It shall be a violation of this chapter to not have the property inspected prior to the conveyance of real property. If the required inspection does not occur prior to the conveyance of real property, then the authority having jurisdiction will inspect the system following the access procedures defined in this chapter.
 - (3) Prior to the expansion of a building or dwelling that will increase the number of bedrooms and/or bedroom equivalents or increase the building or dwelling square footage by greater than 25% or alter a building or dwelling such that the work area exceeds 50% of the aggregate area of the existing building.
 - (4) Prior to any modifications made to the absorption field or any change in the treatment system type.
- B. Inspection procedure.
- (1) All existing on-site wastewater treatment systems requiring an inspection pursuant to this chapter shall be performed by a certified inspector.
 - (2) The authority having jurisdiction reserves the right to observe any on-site wastewater treatment system inspection completed by a certified inspector following the procedures identified in Article IV of this chapter.
 - (3) The authority having jurisdiction shall have thirty (30) days to review the inspection report and notify the parcel owner of their findings. If the authority having jurisdiction deems the inspection or the associated report to be inadequate or incomplete, the authority having jurisdiction will notify the parcel owner by a letter within 30 days from when the report was received. The system shall be reinspected, and an inspection report shall be sent to the authority having jurisdiction. The system shall be considered incomplete until an adequate inspection report is submitted to the authority having jurisdiction.
- C. Report of Inspection Findings.
- (1) Upon completion of the inspection, the certified inspector shall document all procedures and furnish the owner with a report of findings.
 - (2) All inspection reports must be filed with the authority having jurisdiction within 30 days of the inspection's completion. Failure to submit the report to the authority having jurisdiction shall be considered a violation of this chapter and shall be punishable according to Article VII of this chapter. The system shall be considered uninspected until an adequate inspection report is submitted to the authority having jurisdiction.
 - (3) The authority having jurisdiction shall have thirty (30) days to review the inspection report and notify the parcel owner of their findings. If the authority having jurisdiction deems the inspection report adequate, the authority having jurisdiction shall notify the parcel owner by letter, stating that the inspected on-site wastewater treatment system is determined to be either adequately functioning, a substandard system, or in failure. The report of findings by the certified inspector shall be attached and may be used to support the determination.

- (4) All reports shall include photographs of the distribution box and tank.

Section 12. Chapter 126, Article II, General Regulations and Requirements, Section 126-13 Use of design professionals and Ontario County Soil and Water Conservation District, Subsections A., B., and C. is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-13 Use of design professionals and Ontario County Soil and Water Conservation District.

- A. The Code Enforcement Officer shall have the authority to require the property owner to retain the services of a design professional to conduct site and soil appraisals (e.g., percolation tests and deep hole tests) and to document said appraisals. The design professional shall certify that the on-site wastewater treatment system is being installed, or replaced meets the requirements of this Chapter and the standards of applicable state laws.
- B. The results of all site and soil appraisals, system design plans and certification(s) of installed on-site wastewater treatment systems shall be filed in the property file located within the Town Development Office.
- C. The Town Board shall contract with the Ontario County Soil and Water Conservation District Office through its Uniform Procedures Program for inspections performed pursuant to §126-19 of this Chapter.
- D. All costs associated with site and soil appraisals and inspections referenced above herein shall be charged to the property owner.

Section 13. Chapter 126, Article III, Requirements for new on-site wastewater treatment systems, Section 126-17 Inspection certifications, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

- A. Installation of or changes to the on-site wastewater treatment system shall be under the direct supervision of the design professional. The authority having jurisdiction shall have the right to observe any portion of the installation of the system before it is covered. Such written notice shall be given to the Applicant as part of the building permit.
- B. The Applicant shall be prohibited from covering any component of the on-site wastewater treatment system without authorization from the Town Code Enforcement Officer (CEO). Any change of construction approved by the CEO shall be noted on the original drawings before the system is backfilled. An additional review and approval shall not be required for any minor alterations to the design already approved by the authority having jurisdiction. Major alterations to the system design shall require review and approval by the authority having jurisdiction. Major alterations include any changes to the absorption field and/or changes to the size or type of pretreatment tank. As built plans shall be certified by the design professional and provided to the CEO.
- C. The Code Enforcement Officer may, by written notice, order all work stopped on any on-site wastewater treatment system which is found to be in violation of this chapter.
- D. The Code Enforcement Officer shall have the right to require the design professional responsible for the design of the on-site wastewater treatment system to certify their inspection of the system prior to backfill. This certification shall state... "I have inspected the on-site wastewater treatment system installed at the subject property prior to backfill and found it to be in compliance with all applicable provisions of New York State Regulations and Chapter 126 of the Farmington Town Code." This certification shall bear the original seal and signature of the design professional.
- E. As-built plans and construction certification by a design professional shall be provided to the CEO after installation is complete.

Section 14. Chapter 126, Article III, Requirements for new on-site wastewater treatment systems, Section 126-18 Fees, is hereby deleted in its' entirety and this Section is replaced in its' entirety to read as follows:

§126-18 Fees.

The fees for any permit or inspection performed pursuant to the provisions contained in this Chapter shall be determined, from time to time, by the Town Board and shall be made part of the Town's Fee Schedule. The Applicant, by signing the Permit Application Form, agrees to payment to the Town for all authorized inspection fees and services.

Section 15. Chapter 126, Article IV, Requirements for existing on-site wastewater treatment systems, is hereby amended by adding a new Section 126-121.1, Replacement of septic tanks and distribution boxes, to read as follows:

§126.21.1 Replacement of septic tanks and distribution boxes.

Replacement of septic tanks and distribution boxes shall require a Building Permit from the Town Code Enforcement Officer, but do not need to be designed by a design professional provided such repairs are made to replace existing conditions. All alterations to the absorption field shall require a Building Permit which shall be issued based upon a design completed by a design professional.

Section 16. Chapter 126, Article V, Compliance and reporting, is hereby amended by adding a new Section 126-22 A., Compliance and reporting to read as follows:

§126.22 A. Compliance and reporting.

- (1) On parcels for which a building permit for an on-site wastewater treatment system or inspection has been requested by the parcel owner or parcel owner's agent, the authority having jurisdiction shall be permitted

by the parcel owner to make a physical inspection of the lands and premises to determine that all of the requirements of this chapter have been complied with.

- (2) When an inspection is required by the provisions within Article III of this chapter, the authority having jurisdiction shall order the parcel owner to provide a report of findings attested to by a design professional or an on-site training network Registered Inspector as will adequately describe the type, capacity, location of the elements of the existing system, condition, and functionality of the existing system in order to determine that all of the requirements of this chapter have been complied with. Upon receipt of order, the parcel owner shall be given thirty (30) days to complete a new inspection of the on-site wastewater system and submit a report of findings to the authority having jurisdiction. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.
- (3) The authority having jurisdiction, upon show of due cause, shall order the parcel owner to provide a report of findings attested to by a design professional or an on-site training network Registered Inspector as will adequately describe the type, capacity, location of the elements of the existing system, condition, and functionality of the existing system. Upon receipt of order, the parcel owner shall be given 30 days to complete a new inspection of the on-site wastewater system and submit a report of findings to the authority having jurisdiction. If refused, the authority having jurisdiction shall apply to a court of competent jurisdiction for a search warrant.

Section 17. Chapter 126, Article V, Compliance and reporting, is hereby amended by adding a new Section 126-22 B. Deficiencies and corrections, to read as follows:

§126.22 B. Deficiencies and corrections.

- (1) Upon discovery of an on-site wastewater treatment system which is in failure, the authority having jurisdiction shall immediately notify the parcel owner in writing of the failure through a notice of violation. It shall be the responsibility of the parcel owner to forward the notice of violation to other involved or interested parcel owners or renters. The notice of violation shall include the specific section of the law being violated, the components of the system which are not in compliance with the requirements of this chapter, the action that is necessary to correct the noncompliance, the date by which the permit must be obtained, the timeframe in which corrective actions must be completed.
- (2) The authority having jurisdiction shall, by written notice and/or posting, order all work stopped on any on-site wastewater treatment system which is in violation of this chapter.
- (3) Upon receipt of a notice of violation of a failed system that is directly discharging to the surface and/or surface water, the authority having jurisdiction shall order that the discharge be terminated immediately and if the on-site wastewater treatment system has a tank, the outlet shall be sealed, and the tank used as a Holding Tank until the system is brought into compliance.

Section 18. Chapter 126, Article VI, Complaints, is hereby amended by adding a new Section 126-23 Notification, subsections A., B. and C., to read as follows:

§126.23 Notification.

- A. Complaints by individuals shall be made in writing to the Town Code Enforcement Officer with supporting information that an on-site wastewater treatment system may be in failure. Such information may include, but is not limited to samples of groundwater, surface water, or photos of above ground seepage, or conditions otherwise creating a public nuisance.
- B. If after further investigation by the Town Code Enforcement Officer (CEO) there is due cause, the CEO shall notify the property owner and the inhabitants of the property in writing, within seven business days or receipt of the complaint and shall request access to the property to further investigate the potential failure. A copy of such notice shall also be sent to the Town Clerk.
- C. The CEO shall follow the procedures in Article IV of this chapter to gain access to the parcel and depending upon findings of the investigation, the CEO will follow procedures established to remedy any deficiencies.

Section 19. Chapter 126, Article VII, Administrative Relief, is hereby amended by deleting §126-24, Appeals, in its entirety and replacing with a new Section 126-24, Appeals for Failed Systems and a new Section 126-24.1, Appeals for non-failed systems, to read as follows:

§126.24 Appeals for Failed Systems.

- A. Appeals for failed systems shall follow the standard procedures that are set forth below herein, with all appeals made to the Town Board setting as the local Board of Health.
- B. Appeals of any actions, omissions, decisions, or rulings of the Code Enforcement Officer shall be made in writing to the Town Board and must be instituted 30 days of the ruling from which relief is sought.
- C. Within 30 days of receipt of a written appeal of a decision or interpretation by the CEO, the Town Board shall give notice of a public hearing to be held on the appeal.

- D. Within 30 days of final adjournment of a public hearing, the Town Board shall, based upon the findings set forth below in Section 126-24.1 of this Chapter, either affirm, modify or overrule the decision of the CEO.
- E. The decision of the Town Board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Board. The Town Board's discretion in considering an appeal under this chapter shall not extend to granting variances from this chapter but shall rather be limited to reviewing the Code Enforcement Officer's interpretation or application of the terms hereof. Variances from the substantive requirements (e.g., septic tank sizes, setback distances, etc.) remain under the jurisdiction of the NYSDOH and the NYSDEC.

§126-24.1 Appeals for relief from the requirements of this chapter.

- A. Where practical difficulties or unnecessary hardships result from the strict compliance with the requirements of this chapter and which are inconsistent with the general purpose of this chapter or certain provisions thereof are encountered, the property owner may appeal an interpretation made by the Town Code Enforcement Officer (CEO) of a failed system, to the Town Board acting as the local Board of Health.
- B. The Town Board, in deciding upon an appeal of an interpretation by the CEO shall consider the following criteria when making its' findings:
 - (1) Whether the use or activity to be authorized is in harmony with the purpose and intent of this Chapter, the following considerations will be determined:
 - (a) Previous approvals and/or specific waivers that may have been granted by the New York State Department of Health, or the Town Board sitting as the local Board of Health; and
 - (b) Distance separations to surface water and groundwater wells to minimize pathogen, nutrient and/or other pollutant loading; and
 - (c) The ability of the property owner to use the most recent approved technology and the property owner's ability to maintain that technology in a particular incident; and
 - (d) Existing setback from property lines adjacent to the subject property.
 - (2) Whether a substantial change will be produced in the general condition of the water quality or a substantial risk to groundwater quality or quantity will be created because of the variance.
 - (3) Whether the hardship or difficulty can be alleviated by some other method that is feasible for the applicant to pursue.

Section 19. Chapter 126, Article VIII, Enforcement, is hereby amended by deleting §126-25, Violations, in its entirety and replacing with a new Section 126-25, to read as follows:

- §126-25 Violations.
- A. In any instance where this chapter is violated, the Town of Farmington may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with the terms of this chapter, or to enforce a violation of this chapter, or to restrain by injunction the violation of this chapter.
 - B. An application for a building permit shall include a section requiring consent by the parcel owner to permit the authority having jurisdiction to enter upon the premises without a search warrant to inspect the work which is the subject matter of the permit application.
 - C. If a parcel owner fails to complete an inspection required by this chapter, or to allow access to the parcel for the required inspection, the authority having jurisdiction shall obtain an administrative search warrant, which may be issued by a court of competent jurisdiction, to complete the required inspection.
 - D. The Town Board (acting as the Town Board of Health) may schedule a hearing on an on-site wastewater treatment system that the authority having jurisdiction has determined to be in failure and has not been rectified by the parcel owner. In instances where the violation is deemed by the authority having jurisdiction to pose an imminent threat to public health, the Town Board may direct that the Town take corrective action and assess all costs and expenses incurred by the Town in connection with the proceedings and correction of the violation upon the parcel. The Town Board shall ascertain the cost of such correction action and such cost shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

Section 20. Chapter 126, Article VIII, Enforcement, is hereby amended by deleting §126-26, Alternative remedies, in its entirety.

Section 21. Chapter 126, Article VIII, Enforcement, is hereby amended by renumbering §126-27 to §126-26, Misrepresentation.

Section 22. Chapter 126, Article VIII, Enforcement, is hereby amended by adding a new §126-29, Conflict of law, to read in its entirety as follows:

§126-29 Conflict of Law.

In any case where a provision of this chapter is found to conflict with a provision of any ordinance or local law, or with a

provision of any statute, rule, regulation, or order of the State of New York, the provision which establishes the higher standard for the promotion of health, safety or welfare of the residents of the Town of Farmington shall prevail. In any case where a provision of this chapter is found to conflict with a provision of any other ordinance or local law existing on the effective date of this chapter, which establishes a lower standard for the promotion of health, safety or welfare of the residents of the Town of Farmington shall prevail.

Section 23. If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 24. This local law shall take effect immediately upon filing with the Secretary of State

RESOLUTION #66-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION FOR THE SUPERVISOR TO SIGN THE PROPOSAL FROM SWBR FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR CONSTRUCTION DOCUMENTS AND BIDDING PHASES FOR THE RENOVATIONS IN THE LOWER LEVEL OF THE TOWN HALL

WHEREAS, the proposal from SWBR lists a total compensation for professional services for construction documents and bidding and negotiations at a cost not to exceed \$9,950; now therefore

BE IT RESOLVED, that the expenditures will be disbursed out of the Town Hall Renovation Capital Project, and be it

FURTHER RESOLVED, that the Town Supervisor signs the SWBR proposal, and be it

FULLY RESOLVED, that the Town Clerk forwards a copy of the signed proposal to Michael Brown, Project Manager, SWBR, 387 East Main St, Rochester, NY 14604 and provides a copy of the resolution and the proposal to the Accountant I, the Highway Department, and the Building Department.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #67-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION AUTHORIZING THE ELECTRONIC WITHDRAWAL OF PAYCHEX MONTHLY ANALYSIS FEES

WHEREAS, Paychex withdraws a monthly electronic payment out of the Town of Farmington's General checking account to cover administration costs, and

WHEREAS, the administration costs were appropriated in the General 2024 budget expenditure line A1430.4, and

WHEREAS, the \$2395.79 in the T & A FSA employee contribution fund which were not utilized by the employees for medical reimbursements will be transferred to the General savings account to offset the FSA administration costs for 2024, now therefore

BE IT RESOLVED, that the Town Board of Farmington hereby authorizes the Accountant I to transfer the \$2395.79 and complete the monthly Journal Entries to record the electronic withdrawals, and be it

FURTHER RESOLVED, that copies of this resolution be submitted by the Town Clerk to the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #68-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION APPROVING THE PURCHASE OF FLOW METERS FROM CPE

WHEREAS, resolution 292-2023 approved the purchase of flow meters from CPE based on best value pricing, and

WHEREAS, reliable inflow and infiltration data has been retrieved from these meters and MRB has recommended purchasing two additional meters in 2024 to be placed in areas within the sanitary sewer collection system to continue monitoring the inflow, and

WHEREAS, CPE has provided a quote for (2) flow modules, (6) pipe rings, and (1) spreader bar for a cost not to exceed \$19,850 including shipping, now therefore

BE IT RESOLVED, that the Town place the order with CPE which will be split over the I & I expense account codes SS8120.49 and SS8120.49V, and be it

FULLY RESOLVED, that the Town Clerk forwards a copy of the resolution to Colton Zepka, CPE Service System Solutions, 110 Elmgrove Park, Aaron Bissel at MRB group, the Water and Sewer Department, and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #69-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION RECALLING AND AMENDING RESOLUTION #454 OF 2023 FOR PURCHASE OF (3) NEW AND UNUSED BELTS FOR THE BELT PRESS AT FARMINGTON'S SEWER TREATMENT PLANT

WHEREAS, a written quote dated December 07, 2023, in the amount of \$6,629.60 did not include shipping cost of \$479.50; now therefore

BE IT RESOLVED, that this resolution recalls Resolution # 454 of 2023 and amends the authorized total payment amount as being \$7,109.10 under budget line SS8130.4; and

BE FURTHER RESOLVED, that a copy of this Resolution will be supplied from the Town Clerk to the Acting Water and Sewer Superintendent, and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #70-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION APPOINTING JEREMY HOTCHKISS TO THE BOARD OF ASSESSMENT REVIEW

WHEREAS, the purpose of the Board of Assessment Review is to help ensure Farmington property owners are afforded a fair and unbiased review of their property values; and

WHEREAS, Edward Hemminger resigned from his position on the Board of Assessment Review leaving a vacancy; and

WHEREAS, Jeremy Hotchkiss has expressed interest in serving as a Board of Assessment Review member; now therefore be it

RESOLVED, the Farmington Town Board appoints Jeremy Hotchkiss to the Board of Assessment Review effective January 24, 2024, with his term expiring on September 30, 2025; and

RESOLVED, that the Town Clerk forward a copy of this resolution to the Assessor, Director of Ontario County Real Property at 20 Ontario Street Canandaigua NY 14424, and to Jeremy Hotchkiss at 349 Sheldon Road, Farmington, NY 14425.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #71-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION SUPPORTING A TOWN GRANT APPLICATION TO THE NEW YORK STATE ARCHIVES 2024-2025 LOCAL GOVERNMENT RECORDS MANAGEMENT IMPROVEMENT FUND PROGRAM FOR DOCUMENT CONVERSION AND ACCESS OF HIGHWAY AND PARKS DEPARTMENT RECORDS

WHEREAS, the Farmington Town Board fully supports the submission of a 2024-2025 Local Government Records Management Improvement Fund grant application to New York State Archives through the category of Document Conversion and Access for improved management of Town Highway and Parks Department records; and

WHEREAS, the Town applied for previous Document Conversion and Access grants and was awarded funding to scan, index and integrate physical records into an electronic document content management system. If the Town is awarded funding through this grant cycle, this application would allow this process to be repeated for the Highway and Parks Department records, and

WHEREAS, this competitive grant program provides funds to help local governments enhance records management programs, a priority for the Town of Farmington, which will assume primary responsibility for the ongoing implementation of the improved records management program on a long-term continuing basis, and

WHEREAS, the Town of Farmington recognizes and maintains Town Clerk Michelle Finley as the Records Management Officer and Records Access Officer, as resolved at the January 9, 2024, Organizational Town Board Meeting, and

WHEREAS, the Town of Farmington formally adopted Records Retention and Disposition Schedule LGS-1 on August 12, 2020, and

WHEREAS, the Town of Farmington will formally submit a Request for Quotation for Preferred Source Document Scanning Vendor, Records Management Software and Accessories Document Conversion and Access Services prepared by MRB Group, and

WHEREAS, the Town will contract with a consultant to perform a scanning and indexing of paper records and integration of those records into the existing online records management system;

THEREFORE BE IT RESOLVED, that the Town Supervisor is hereby authorized and directed to file an application with New York State Archives for a 2024-2025 Local Government Records Management Improvement Fund grant, is directed to fulfill agency requirements with the State, implement the records management improvement project, and maintain the results of the grant project over the long term by allocating Town resources for continued comprehensive management of such records, and

BE IT FURTHER RESOLVED, that the Consultant will provide document preparation, scanning, and indexing of large format map and plan documents,

BE IT FURTHER RESOLVED, that the Town Board recognizes and fully supports the submission of a 2024-2025 Local Government Records Management Improvement Fund grant application.

MAY IT BE FURTHER RESOLVED, that copies of this resolution be submitted by the Town Clerk to the Accountant I, Confidential Secretary to the Town Supervisor, Highway/Parks Superintendent, the Code Enforcement Officer Dan Delpriore, and Laurie Fox MRB Group, The Culver Road Armory, 145 Culver Rd #160, Rochester, New York 14620.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #72-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Herendeen**:

RESOLUTION AUTHORIZING ACCEPTANCE OF A SIDEWALK EASEMENT FOR PROPERTY LOCATED AT 1722 ACKERMAN WAY

WHEREAS, the Town of Farmington, by its officers or representatives, has engaged in discussions with NVR, INC d/b/a/ Ryan Homes of New York, successor by merger of NVR Homes, Inc ("Owner") regarding the Town's obtaining a sidewalk easement over portions of its property located at 1722 Ackerman Way, as shown on a map prepared by Passero Associates dated January 16, 2024; and

WHEREAS, Town of Farmington officials have recommended to the Town Board that said Owner grant to the Town the easement over said land of said Owner; and

WHEREAS, said easement has been offered by Owner to the Town of Farmington; and

WHEREAS, the Town Board of the Town of Farmington is desirous of accepting said offered easement on behalf of said Town; and

WHEREAS, the Town Board of the Town of Farmington has examined said instrument and finds the consideration described in said easement to be fair and reasonable.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Farmington does hereby accept the Easement attached hereto as Exhibit 1 from Owner in accordance with the terms and conditions contained in said instrument and directs that the same be recorded in the Office of the Clerk of the County of Ontario by Town Attorney, the fees for said recording to be borne by the NVR, Inc d/b/a Ryan Homes, and

BE IT FURTHER RESOLVED, that the Town Supervisor shall be and hereby is authorized to take any and all further action necessary to carry forth the intent of this resolution, including but not limited to the execution of all documents necessary to complete the conveyance of the premises referenced herein.

MAY IT BE FURTHER RESOLVED, that copies of this resolution be submitted by the Town Clerk to the Jeff Graff 26 East Main Street Clifton Springs for filing with the County Clerk's Office, Code Officer Dan Delpriore, Confidential Secretary, Lance Brabant with MRB and to BLLB, P.C. 1173 Pittsford-Victor Road Suite 220 Pittsford, NY 14534 Attn: VV.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #73-2024:

Councilman Herendeen offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION REAPPOINTING DOUG PAYNE TO THE BOARD OF ASSESSMENT REVIEW

WHEREAS, the purpose of the Board of Assessment Review is to help ensure Farmington property owners are afforded a fair and unbiased review of their property values; and

WHEREAS, current Board of Assessment Review member, Doug Payne's term expired on September 30, 2023; and

WHEREAS, Mr. Payne has expressed interest in continuing as a Board of Assessment Review member; now therefore be it

RESOLVED, the Farmington Town Board appoints Doug Payne to the Board of Assessment Review effective October 1, 2023, with his term expiring on September 30, 2028; and

RESOLVED, that the Town Clerk forward a copy of this resolution to Assessor, Director of Ontario County Real Property at 20 Ontario Street Canandaigua NY 14424, and to Doug Payne at 1523 County Road 8, Farmington, NY 14425.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #74-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

APPROVAL TO ACCEPT A QUOTE FROM COLACINO INDUSTRIES, 126 HARRISON ST. NEWARK NY 14513

WHEREAS, the Town of Farmington Acting Water & Sewer Superintendent recommends accepting the quote from Colacino Industries on January 24, 2024, for the replacement of Sludge Pump #2 VFD at the Sewer Treatment Plant 1216 McMahan Rd Victor NY 14564; and

WHEREAS, the Acting Water and Sewer Superintendent has received a quote from Colacino Insutries, the sole source for this project; and

WHEREAS, the Acting Water and Sewer Superintendent seeks to award the quote to Colacino Industries at a cost not to exceed \$5,000.00 using cost code SS8130.4; now therefore

BE IT RESOLVED, that a copy of this resolution will be supplied from the Town Clerk to the Acting Water and Sewer Superintendent and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #75-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

CONFIRMING RESOLUTION AUTHORIZING THE TOWN SUPERVISOR TO SIGN A CUSTOMER SERVICE ORDER WITH SPECTRUM ENTERPRISE OF INTERNET AT MERTENSIA PARK

WHEREAS, Spectrum Enterprise has provided a Customer Service Order for internet at Mertensia Park, and

WHEREAS, there is a one-time installation fee of \$99.00 plus construction fee of \$6,515.40, and a monthly service fee of \$64.99, now therefore be it

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the attached Customer Service Order with Spectrum Enterprise of internet service at Mertensia Park with a cost not to exceed a one-time installation fee of \$99.00 plus construction fee of \$6,515.40, and a monthly service fee of \$64.99, and be it further

RESOLVED, that the Town Clerk provide copies of this Resolution to the Accountant I and the Highway/Parks Superintendent.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #76-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

Abstract 2 – 2024

TOWN OF FARMINGTON ABSTRACT OF UNAUDITED VOUCHERS

<i>ABSTRACT NUMBER</i>		<i>2</i>	
<i>DATE OF BOARD MEETING</i>		<i>1/23/2024</i>	
<i>FUND CODE</i>	<i>FUND NAME</i>	<i>TOTAL FOR EACH FUND</i>	<i>VOUCHER NUMBERS</i>
A	GENERAL FUND	146,785.56	71,72,74-80,83-113,115,120,122,123,125,126,132,135,136
DA	HIGHWAY FUND	48,475.41	82,95,108,112,117,127-131,133-134
HG	CTY RD 8 WATERLINE	1,250.00	104
HN	NORTH RD CAPITAL PROJ	700.00	104
HP	TOWN PARK IMPR.	6,976.00	104
HT	TOWN HALL CAPITAL IMPR.	720.00	124
HV	MERTENSIA WATERLINE	2,385.00	104
HW	WATER TANK REPAIR	16,600.00	104
HY	RT. 332 & COLLETT	2,415.00	104
SD	STORM DRAINAGE	7,128.58	82,114,117
SL1	LIGHTING DISTRICT	2,025.91	78,135
SS	SEWER DISTRICT	65,797.36	37-65,82,83,95,98,104,108,117
SW1	WATER DISTRICT	25,052.20	37,39,45,46,48,50-54,56-58,63-70,82,83,95,98,104,105,108,117
TA200	PAYROLL DEDUCTIONS	7,667.16	73,81,117,121,137
	TOTAL ABSTRACT	\$ 333,978.18	

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

TRAINING UNDER \$100: None.

DISCUSSION: None.

WAIVER OF THE RULE: No Objections

RESOLUTION #77-2024:

Councilman Casale offered the following Resolution, seconded by **Councilman Herendeen**:

CONFIRMING RESOLUTION AUTHORIZING A CHANGE IN TITLE FOR TREVOR WENDT FROM MEO LIGHT IN THE PARKS DEPARTMENT TO MEO IN THE HIGHWAY DEPARTMENT

WHEREAS, Trevor Wendt, has been employed in the position of MEO Light in the Parks Department since September 11, 2017; and

WHEREAS, the Highway Department has 2 MEO vacancies and Trevor has completed the requirements to qualify as an MEO and was approved as such by the Ontario County Department of Human Resources;

NOW, THEREFORE BE IT RESOLVED, that the Town Board authorizes the change in title for Trevor Wendt, from MEO Light in the Parks Department to MEO in the Highway Department; and

BE IT FURTHER RESOLVED, that a copy of this resolution will be supplied from the Town Clerk to the Confidential Secretary, the Highway Department, and the Accountant I.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

RESOLUTION #78-2024:

Councilman Holtz offered the following Resolution, seconded by **Councilman Casale**:

RESOLUTION AUTHORIZING THE HIGHWAY/PARKS SUPERINTENDENT TO HIRE KYLE MARKGRAF FOR THE MECHANIC POSITION IN THE HIGHWAY DEPARTMENT

WHEREAS, the Mechanic Position in the Highway Department has been vacant since May 2023, and

WHEREAS, Kyle Markgraf completed the online application and has been approved by Ontario County Human Resource Department, and

RESOLVED, that the Town Board authorizes the Highway/Parks Superintendent to hire Kyle Markgraf to fill the vacant position of Mechanic effective Monday, February 5th, 2024 at a rate of \$29.00 per hour, and be it further

RESOLVED, that the Town Clerk forward copies of this Resolution to the Highway/Parks Superintendent, the Accountant I, and the Supervisor's Office.

All Voting "Aye" (Ingalsbe, Holtz, Herendeen, and Casale), the Resolution was **CARRIED**.

EXECUTIVE SESSION:

A motion was made by **Councilman Casale** and seconded by **Councilman Holtz** to enter into executive session at 7:32 p.m. to discuss proposed, pending or current litigation. **Councilman Casale** made a motion to exit executive session at 8:04 p.m., **Councilman Herendeen** seconded the motion, motion Passed.

With no further business before the Board, **Councilman Holtz** offered a motion to adjourn the meeting at :8:05 p.m., seconded by **Councilman Casale**. Motion **CARRIED**.

Michelle A. Finley, MMC, RMC -Town Clerk