

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town

Village

of Augusta

Local Law No. 1 of the year 1992

A local law Regulating the Storage and Land Spreading of Septic and Sewage Waste in the Town of Augusta
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County

City

Town

Village

of Augusta as follows:

I. LEGISLATIVE PURPOSE.

WHEREAS, due to the increasing cost of land filling, septic waste and sewerage sludge, land spreading of such wastes is being proposed on a more widespread basis; and

WHEREAS, the Town of Augusta is increasingly characterized by residential properties adjoining agricultural lands, and agricultural lands being converted to residential use; and

WHEREAS, the application of materials which have not traditionally been considered farm products to agricultural lands creates issues which may hamper land transfers and future development within the town; and

WHEREAS, there are limited public water supplies within the Town of Augusta and most properties within the town are serviced by private wells or springs; and

WHEREAS, contamination or potential contamination of ground water supply within the Town of Augusta poses a threat to the health, safety, and general welfare of the residents of the Town of Augusta; and

WHEREAS, septic waste and sewage sludge, as well as byproducts derived from such wastes, may contain varying levels of pathogens, nitrates, heavy metals, and other harmful substances which, when applied to the soil in sufficient quantities, may endanger water supplies and insufficient concentrations constitute a health hazard; and

WHEREAS, other regulations designed to protect the ground water supplies in the town from contamination from the land spreading and storage of septic wastes and sewerage sludge may not provide for adequate monitoring to prevent contamination of soils and ground water within the town,

(If additional space is needed, attach pages the same size as this sheet, and number each.)

IT IS DETERMINED that the most effective manner to protect the public health, safety, and general welfare of the residents of the Town of Augusta is to prohibit the land spreading and open storage of such wastes.

II. DEFINITIONS.

DISPOSE or DISPOSAL. The discharge, deposit, injection, dumping, spilling, spreading, leaking, or placing of any sludge or septage into or on any land or water.

SEPTAGE. The contents of a septic tank, cesspool, or other individual or group sewage treatment or storage facility which receives domestic sewage waste.

SLUDGE. Any solid, semi-solid, or liquid waste generated or deposited from municipal or private sewage treatment plants, or from byproducts of food processing, including but not limited to any and all byproducts or derivatives from septage or sludge as heretofore defined, whether or not chemicals or other compounds have been added to the septage or sludge to create the byproduct.

III. PROHIBITION.

No person or corporation shall dispose of any septage or sludge as defined by this local law within the Town of Augusta except by landfilling at a properly regulated site for which all federal, state, and local permits have been obtained. No person or corporation shall store any septage or sludge within the Town of Augusta except in a fully enclosed container, receptacle, or facility which will prevent the spilling and leaking of the septage or sludge into any land or water provided, however, that such prohibition shall not prevent the installation, maintenance and operation of a septic system or sewage treatment plant in accord with all other local, state, and federal rules and regulations.

IV. PENALTIES.

Any person or persons violating any of the provisions of this local law shall be punished, upon conviction, by a fine of not more than Twenty-five Hundred (\$2,500.00) Dollars or confinement to a maximum term of imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment. Each day's continued violation shall constitute a separate and additional violation hereunder.

V. CONSTRUCTION.

Nothing in this local law shall be deemed to impair or diminish any cause of action or remedy which the town may have under

any other local law, statute, ordinance, or regulation or under the common law; provided, however, that in the case of a conflict, those terms or rules of law shall control which are most restrictive. In addition thereto, the Town of Augusta may enforce this local law by court injunction.

VI. LIABILITY.

Any person adjudged in a criminal or civil proceeding to have violated this local law shall be liable to the Town of Augusta for all expenses incurred by the town in connection with the proceedings, including, but not limited to, reasonable attorney's fees and court costs, laboratory testing or fees for expert witnesses needed for prosecution, and any remedial action necessary to bring effected property or lands into compliance to prevent further environmental hazards including "clean up" if necessary.

VII. SEVERABILITY.

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, subdivision, section, or part thereof directly involved in the controversy, dispute or proceedings in which such judgment is rendered.

The provisions of this local law shall be construed in such a manner so as not to violate the provisions of the Interstate Commerce Clause of the Constitution of the United States. In the event that the prohibition established hereunder shall be deemed to violate the Interstate Commerce Clause, this local law shall be interpreted to apply only to intrastate regulation of septic and sludge disposal.

VIII. ENFORCEMENT: The Code Enforcement Officer of the Town of Augusta is hereby authorized to issue stop work orders for any action or activities in violation of this local law, to initiate enforcement proceedings on behalf of the Town against violators, and to seek injunctive relief when necessary.

IX. WHEN EFFECTIVE.

This local law shall become effective upon the date it is filed in the Office of the New York State Secretary of State.

DATE: 10/13/92

MUNICIPALITY		
Town of Augusta		
LOCAL LAW(S) NO.	YEAR	FILING DATE
1	1992	10/9/92

Local Law Acknowledgment

WILLIAM H GETMAN
WOODMAN AND GETMAN
WATERVILLE NY 13480-0026
130 EAST MAIN STREET

PO BOX 26
WATERVILLE NY 13480-0026

DOS-236 (Rev. 6/90)

The above-referenced material was received and filed by this office as indicated.

Additional local law filing forms will be forwarded upon request.

WOODMAN AND GETMAN
ATTORNEYS AND COUNSELORS AT LAW
WATERVILLE, NEW YORK 13480-0026

RICHARD S. WOODMAN
WILLIAM H. GETMAN

(315) 841-8021
841-4186

130 EAST MAIN STREET
P. O. BOX 26
FAX (315) 841-4472

October 5, 1992

Mrs. Ethel Farrow
Town Clerk
Town of Augusta
105 College Street
Oriskany Falls, NY 13425

Re: Local Law No. 1 of the year 1992,
A local law Regulating the Storage and Land Spreading
of Septic and Sewage Waste in the Town of Augusta

Dear Ethel:

Enclosed please find the proposed local law relating to
land spreading for submittal to the Secretary of State. At
the Town Board's request, we have added a provision with
regard to enforcement of the local law.

Would you kindly sign and seal the three copies to be
forwarded to the Secretary of State and forward them on in
the enclosed envelope.

If you have any questions, please call.

Sincerely,



William H. Getman

WHG:dma

Enclosures

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 92 of the ~~(County)(City)~~(Town)(Village) of Augusta was duly passed by the Town Board on September 8, 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



B. Ethel Jarrett
~~Clerk of the County legislative body, City, Town or Village Clerk~~
~~or officer designated by local legislative body~~

Date: October 6, 1992

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONEIDA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

William H. Getman
Signature
Town Attorney
Title

~~County~~
~~City~~ of Augusta
Town
~~Village~~

Date: October 6, 1992

WOODMAN AND GETMAN
ATTORNEYS AND COUNSELORS AT LAW
WATERVILLE, NEW YORK 13480-0026

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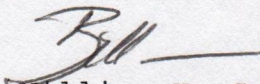
October 15, 1992

Ethel Farrow, Town Clerk
College Street
Oriskany Falls, New York 13425

Dear Ethel:

Enclosed is a copy of the Local Law Acknowledgment indicating the filing of Local Law No. 1 of 1992 for the Town of Augusta, that being the Land Spreading Prohibition Local Law.

Sincerely,


William H. Getman

WHG:scr

Enclosure

cc: Mr. Neil Jeffers
Town Supervisor
North Main Street
Oriskany Falls, NY 13425