

Sewer Task Force Status Report #2

Date: 2025-07-16

To: Town of Gardiner Board Members

Fr: Sewer Task Force (Members: R. Cerruto, L. Geary, P. Colucci, J. Benner, T. Penichter)

Executive Summary

Three more documents found in the Town Hall by the Sewer Task Force (in addition to the old sewer law) provide further evidence supporting the Town's ownership of the septic tanks, laterals, etc. and its responsibility for maintenance of the same. We provide summaries and links to these documents so the Town Board may be better informed as it contemplates sewer policy in Gardiner.

Details

Documents located in the Town Hall sewer district files regarding ownership of the septic tanks and appurtenant equipment are described below. These documents indicate that the Town of Gardiner Sewer District represented to the EPA and DEC that the Town would own the septic tanks in the sewer district. Both EPA and DEC provided grant funding for the sewer system based upon the representation of the "alternative" system proposed by Gardiner, which included Town ownership of the septic tanks. Also, the required access easements for each property to install the septic tanks, laterals, etc. supports the Town ownership of the septic tanks as the easement allows access to the Town to repair and replace the tanks as well as related equipment.

Please see attached documents.

1. September 7, 1979 U.S. Environmental Protection Agency, Region II Office Environmental Impact Statement (Attachment A):

The project description states "All septic tanks will be owned and operated by the Sewer District. This will require easements to be obtained by the Sewer District in order to provide access to the tanks." (Environmental Assessment, p. 2)

[1979 EPA Approval of Sewer District \(says town owns septic tanks\).pdf](#)

2. February 4, 1980 Erikson & Silber Engineers, P.C. (Town of Gardiner engineers) letter to N.Y.S. Department of Environmental Conservation, Central Albany Office (Attachment B):

"All inadequate septic tanks will be replaced as part of this Project. The Sewer District will own and have easements to all tanks."

[1980 Sewer Cost Analysis \(says town owns septic tanks\).pdf](#)

3. Sewer Easement for Gardiner Sewer District #1 (sample dated September 27, 2000) (Attachment C):

Note: The Town Hall sewer files had only one sewer district easement when the STF searched the files. Other sewer district easements are quite likely filed with the deed records at the Ulster

County clerk's office. We believe the attached easement located in the Gardiner sewer district files is quite likely the template used for all the other easements.

The sewer district easement is a permanent easement over a certain portion of each connected property "running along the constructed sewer line, septic tank and/or pump vault...Said easement shall include the right of reasonable access over the premises of the (Owner/Grantor) for the purpose of laying, constructing, operating, maintaining, altering, repairing and replacing said sewer line, septic tank and pump unit, and for the installation, repair, replacement of electrical service from the electrical panel to the pump unit." The easement prohibits the property owner from interfering with the Town's access for these purposes.

The plain language of the easement indicates that the Town will repair or replace the septic tanks. If there was no need to access the septic tank and related equipment for its repair and replacement, there would be no need for a "permanent easement."

[Easement 93.68-2-3 Lot 4 Dusinberre.pdf](#)

4. The Sewer Use Law in effect since 1984, until December 3, 2024, states the Town/Sewer District owns the septic tanks (Attachment D): On December 3, 2024 L.L. No. 5-2024 (the "New Law") repealed the former Sewer Use Law adopted on March 20, 1984 by L.L. No. 2-1984 as Ch. 46 of the 1984 Code (the "Old Law"). The Old Law was adopted soon after the wastewater treatment facility and sewer district were established and operational.

Section 46.21 "Definitions" of the Old Law states:

"Sewer District" shall mean the Town of Gardiner Sewer District No.1 as created, altered, or modified by action the Town Board of the Town of Gardiner. (§ 46.21(9))

"Town Sewer System" shall mean the septic tanks, interceptor sewers, trunk sewers, lateral sewers, force mains, pumping stations, sewage regulators, and other appurtenant structures owned and operated by the Town of Gardiner Sewer District No. 1. (§ 46.21(10))

"Private sewage disposal system" shall mean any privy, septic tank, cesspool, or other sewer disposal facility owned and operated by a person other than a municipal sewage system. (LG Note: this would only apply to property which does not abut on any street or right-of-way in which, or adjacent to which there is a public sewer. Anyone who abuts a street or right-of way with a public sewer was required to connect to the sewer under the Old Law.)(§ 46.21(19))

The Old Law puts the responsibility for the "building sewer" on the property owner. The building sewer is the connection from building drain to the public sewer. The first point that the building sewer connects with the public sewer under the Old Law is the septic tank. (see §§46.69, 46.21(3), and 46.21(4)) The septic tank and lateral to the street are part of the Town Sewer System.

[Sewer Law \(pre-2024\).pdf](#)

As discussed in the STF Report #1, the New Law changed or eliminated these definitions. We recommended in that report that the New Law be amended to include the septic tanks, and laterals from the tanks to the street, be owned and operated by the Town/Sewer District and re-iterate that recommendation here.

