

Town of St. Armand
Public Hearing
Special Board Meeting
Monday, August 26, 2019
6:00 PM

These Meeting Minutes were approved by the Town Board on September 12, 2019.

A Public Hearing of the Town of St. Armand was held on the above date and time at the Town Hall, Bloomingdale, NY.

BOARD MEMBERS PRESENT:

Town Supervisor Davina Winemiller, Deputy Supervisor D. Joseph Bates, Councilperson Donald Amell, Councilperson Jennifer Fuller, and Councilperson Karl Law.

A quorum of the Board was in attendance.

TOWN EMPLOYEES PRESENT:

Town Clerk Barbara Darrah.

GUESTS: There were no guests at the meeting.

Public Notice was published in the Adirondack Daily Enterprise regarding the date and time of this meeting, and posted on the Bloomingdale Fire Department electronic marquis and the Town Board Bulletin Board located outside.

Supervisor Winemiller called the Public Hearing to order at 6:00 pm and led the Pledge of Allegiance.

Supervisor Winemiller announced the Public Hearing was being held for the introduction of a Local Ordinance. She asked Town Clerk Barbara Darrah to read the published Public Notice aloud.

Darrah: Notice is hereby given The Town of St. Armand, Essex County, NY, will meet at the Town of St. Armand Town Hall, 1702 NYS Route 3, Bloomingdale, NY, 12913 on the 26th day of August 2019 at 6:00 pm for the purpose of introducing proposed Local Ordinance #1 of 2019 Septic Systems Ordinance for Lake Placid (Lake). Please take further notice that a copy of the full text of the proposed local ordinance may be reviewed upon request from the Town Clerk of the Town of St. Armand. Published: August 21, 2019.

Winemiller: Today we are talking about putting forward Resolution # 75 of 2019 which is just introducing this Local Ordinance for the Septic Systems Inspections on Lake Placid.

RESOLUTION # 75 OF 2019

**INTRODUCTION OF PROPOSED LOCAL
ORDINANCE # 1 OF 2019 FOR THE INSPECTION OF
SEPTIC SYSTEMS PROXIMATE TO LAKE PLACID
(LAKE) IN THE TOWN OF ST. ARMAND**

Deputy Supervisor D. Joseph Bates, who moved its adoption, offered the following Resolution:

BE IT RESOLVED that the Town of St. Armand Town Board hereby introduces proposed Local Ordinance # 1 of 2019 entitled "Septic Systems Ordinance for Lake Placid (lake),

Section A. Statutory Authority.

1. An ordinance is enacted with the authority granted to the Town of St. Armand under the New York State General Municipal Law and the New York State Home Rule Law.

Section B. Title

1. This ordinance shall be known as the "Septic Systems Ordinance for Lake Placid (Lake)."

Section C. Intent

The intent of this ordinance is to better protect Lake Placid (lake) from exposure to excess nutrients and pollutants, and the Town of St. Armand finds that the occurrence of such nutrients and pollutants is increased by the presence of inadequately functioning septic systems proximate to Lake Placid (lake) and the brooks and streams feeding said lake. In addition, such septic systems are more likely to be a threat to public health with particularly, and acute impacts upon the general public through impairing and contaminating precious ecological resources of the Town of St. Armand and rendering drinking water unsafe. In determining the geographic scope of this ordinance, the Town further finds that all real property parcels a distance of five hundred (500) feet or less from the shoreline of Lake Placid (lake), in whole or in part, shall be considered proximate to Lake Placid (lake) and such properties shall be subject to and governed by this ordinance.

Section D. Applicability.

1. All septic systems servicing or located on properties covered by this ordinance as set forth in Section C above shall be subject to periodic inspections or overview by the Code Enforcement Officer of the Town of St. Armand or such other person designated by the Town Board to enforce the provisions of this ordinance.
2. The Code Enforcement Officer, or such other designee, shall have the right to inspect the septic systems subject to this ordinance upon the occurrence of any one of the following:
 - (a) Upon the effective date of this ordinance and every five (5) years thereafter for seasonal properties and three (3) years thereafter for year-round residences;
 - (b) There exists reasonable cause to believe that a particular septic system is not functioning properly; or
 - (c) Upon the conveyance of the property upon which a septic system is located or which is being serviced by a septic system not located on said property.

Section E. Septic System Inspection.

1. The septic system inspection shall include a septic tank pump out or dye test or both to check the integrity of the system by a New York State Department of Environmental Conservation registered septic hauler, engineer or code enforcement official. The inspection, pump out or dye test shall be arranged by the property owner as soon as possible in order to obtain an accurate and timely assessment of the Onsite Wastewater Treatment System ("OWTS"). The property owner must make arrangements with the Code Enforcement Officer to schedule the inspection and coordinate with the septic hauler to be onsite simultaneously. The cost of the inspection shall be paid by the property owner. A septic system inspection shall not be required in the event that the owner can provide the Code Enforcement Officer with records indicating that a licensed septic system hauler has cleaned the tank with five (5) years for seasonal camps and three (3) years for year-round residences or in the event that the system was newly constructed within five (5) years in conformance with engineering standards.
2. The OWTS inspection shall utilize the New York Onsite Training Network ("OTN") materials, including the OTN System Inspection Request Form, Findings Worksheet and Site Report (Inspection Findings), all of which shall be available in the office of the Code Enforcement Officer. The following minimum standards shall all apply to each inspection:
 - (a) All septic tanks must be within two hundred fifty (250) gallons of the minimum volume requirement.
 - (b) All holding tanks shall be equipped with a float switch and high level alarm located in a conspicuous place to indicate when pump out is necessary. (A copy of pump out records shall be submitted during the inspection prior to conveyance of real property.)
 - (c) For an aerobic treatment system or enhanced treatment unit, the new owner must send a signed copy of an updated service contract to the Town within thirty (30) days after the conveyance of real property.
 - (d) If the OWTS is determined to be failing or inadequate, a written Notice of Violation will be issued, and an approved compliance agreement to correct the violation must be obtained prior to conveyance of real property.
 - (e) If the property was the subject of a letter of acknowledgement from the Code Enforcement Office within 12 months prior to the conveyance, the provisions of this Section shall have been met and no additional inspection shall be necessary to comply with the Section.
 - (f) Septic systems servicing multiple properties must meet the current standards for size and load given the number of properties utilizing the one septic system.

Section F. Failure of the Inspection.

1. Failure of an existing OWTS occurs when the standards for a lawful OWTS as prescribed by the New York State Health Department or the local board of health are not met as determined by the Code Enforcement Officer. While not exhaustive, some examples of a failing system include, but are not limited to, the following:
 - (a) Lack of a pre-treatment vessel (e.g., septic tank, aerobic treatment unit, enhanced treatment unit) prior to effluent discharge to any subsurface treatment area or absorption field;
 - (b) There is a discharge of effluent directly or indirectly to the ground's surface, with surface breakouts, ponding or saturated soils over the soil treatment area;
 - (c) Direct pipe surface discharge of gray water;
 - (d) A dye test results in the presence of dye on the ground surface or adjacent/downstream water body;
 - (e) There is a backup of sewage into the home, building, septic tank or facility as a result of a septic tank overload or malfunction, or a clogged soil treatment area;
 - (f) The septic tank requires pumping more than four times per year and/or sewage is observed flowing back into the septic tank from the secondary treatment area during pump out;
 - (g) Presence of a metal septic tank that is undersized and/or corroded;
 - (h) A cesspool, defined as a covered hole or pit, used to receive untreated sewage from a house or building constructed as a primary source of wastewater disposal; and,
 - (i) A holding tank that discharges effluent to surrounding sub-surface areas.
2. No septic tank, seepage pit, enhanced treatment unit or soil treatment area shall be permitted to discharge to any natural outlet or adjoining property.

Section G. Review

1. Appeals from determinations of the Code Enforcement Officer or requests for variance/waivers from the provisions of this ordinance must be sought from the Town Board and the local board of health within 30 days of the determination complained of.

2. Forms for such appeals and/or requests for variance and waivers will be made available to the public in the office of the Code Enforcement Officer. Such forms must be properly filled out and must be submitted to the office of the Code Enforcement Officer with payment of the applicable fee as established by the Town Board from time to time.

3. In evaluating appeals form determinations of the Code Enforcement Officer, the Town Board may consider whatever information it deems relevant, including any evidence or information submitted by the applicant and any information obtained from the Code Enforcement Officer or Town Engineer. In the event additional information is needed, the Town Board may direct a subsequent inspection of the OWTS at issue.

4. In regard to any request for variance or waivers, such applications to the Town Board shall be governed by and reviewed by the procedure set forth in NYS Town Law §267-a that is used for appeals or variance applications to zoning board of appeals. The Town Board should take into consideration all matters it deems relevant, including the age of the OWTS, whether it appears to be functioning, its proximity to any water body, the circumstances concerning the request for variance or waiver and the hardship to the property owner in the event no variance or waiver is granted.

5. The above remedies shall be exhausted prior to any judicial review.

Section H. Notice of Violation and Penalties.

6. If a property owner fails to complete an inspection required by this ordinance, or to allow access to the property for the required inspection, or if the property owner fails to comply with any other provision of this law, a Notice of Violation may be issued by the Code Enforcement Officer mandating compliance with the inspection requirements.

7. An offense against any provision of this ordinance shall constitute a violation, punishable by a fine not exceeding Nine Hundred and Fifty Dollars (\$950), or imprisonment for a term not exceeding 15 days, or both. Each week such violation continues after notification to the person in violation shall constitute a separate violation.

Section I. Severability.

1. If any clause, sentence, paragraph, subdivision, section, or part of this ordinance or the application thereof to any person, individual, corporation, firm, partnership, entity, 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, subdivision, section, or part of this ordinance, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section J. Effective Date.

1. This ordinance shall take effect immediately upon the unanimous passing of a resolution by the Town Board Members.

BE IT FURTHER RESOLVED that the Town Board of the Town of St. Armand shall hold and conduct a public hearing on introducing the foregoing proposed local ordinance on the 26th day of August, 2019 at 6:00 pm in the forenoon of that day, to hear any and all persons concerning the same: and

BE IT FURTHER RESOLVED that the Town Clerk of the Town of St. Armand published a notice of such hearing in the designated Town newspaper at least five days prior to said hearing.

This Resolution was duly seconded by Karl Law and adopted by Roll Call Vote as follows:

Supervisor Davina Winemiller	AYE
Deputy Supervisor D. Joseph Bates	AYE
Councilperson Donald Amell	AYE
Councilperson Jennifer Fuller	AYE
Councilperson Karl Law	AYE

DATED: August 26, 2019

Barbara J. Darrah
St. Armand Town Clerk

QUESTIONS OR CONCERNS:

There were none.

Winemiller: Being none, can I have a motion to close the Public Hearing?
Councilperson Donald Amell made the motion to close the Public Hearing. The motion was seconded by Councilperson Jennifer Fuller and the Public Hearing ended at 6:04 pm

Supervisor Winemiller then asked for a Motion to enter into Executive Session for the purpose of Union Negotiations (Personnel matters) and Litigation (Highway Garage Damage).

MOTION FOR EXECUTIVE SESSION:

Deputy Supervisor D. Joseph Bates made a Motion to move into Executive Session for the purpose of discussing Personnel matters and Litigation. The Motion was seconded by Councilperson Jennifer Fuller and the Executive session began at 6:04 pm.

MOTION TO END EXECUTIVE SESSION:

Deputy Supervisor D. Joseph Bates made a Motion to end the Executive Session. The Motion was seconded by Councilperson Karl Law and the Executive session ended at 7:38 pm.

MOTION TO ADJOURN:

Deputy Supervisor D. Joseph Bates made a Motion to Adjourn the Special Board Meeting. The Motion was seconded by Councilperson Karl Law and the Special Board Meeting adjourned at 7:40 pm.

I, Barbara J. Darrah, Town Clerk for the Town of St. Armand, do hereby certify that the above is a true and correct transcript of the Regular Board Meeting minutes held on the above-referenced date.

Barbara J. Darrah
St. Armand Town Clerk

Dated: August 26, 2019