

**PROPOSED 2025 AMENDMENTS TO:  
LOCAL LAW NO. 1 OF 2019**

**A LOCAL LAW PROVIDING FOR THE INSPECTION OF SEPTIC  
SYSTEMS WHICH ARE PROXIMATE TO LAKE PLACID LAKE**

*Proposed New Language is Underlined*

**Section A. Statutory Authority.**

1. This local law is enacted with the authority granted to the Town of North Elba under the New York State General Municipal Law and the New York State Home Rule Law.

**Section B. Title.**

1. This local law shall be known as the "Lake Placid Lake Septic System Inspection Law".

**Section C. Intent.**

1. The intent of this local law is to better protect Lake Placid Lake from exposure to excess nutrients and pollutants. The Town of North Elba 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 acute impacts upon the general public through impairing and contaminating precious ecological resources of the Town of North Elba and rendering drinking water unsafe. In determining the geographic scope of this local law, the Town further finds that it is desirable and efficient to rely upon the following zoning district boundaries of the Town of North Elba: North Lake Residential District, Pre-Existing Planned Unit Development, South Lake Residential District, Rural Countryside District and any other district existing, now or hereafter, which is proximate to Lake Placid Lake.

**Section D. Applicability; Restriction on Transfer of Property.**

1. All septic systems servicing or located on properties covered by this local law shall be subject to periodic inspections by a licensed professional engineer or such other person designated by the Town Board to perform said inspections, under the oversight of the Code Enforcement Office. All inspections shall be recorded in the Code Enforcement Office.
2. The Code Enforcement Officer shall have the right to enter onto a property whose septic system is being inspected or a property whose septic system, based on reasonable cause, may not be functioning properly.
3. Septic system inspections shall be required under each of the following circumstances:
  - a) every five (5) years for seasonal properties and every three (3) years for year-round residences, or
  - b) There exists reasonable cause to believe that a particular septic system is not functioning properly, or
  - c) Prior to the closing of the conveyance of a property upon which a septic system is located or which is being serviced by a septic system not located on the property, provided that, in those cases in which an inspection prior to closing is not possible due to time of year or lack of availability of qualified inspectors or other causes, the sale of the property may take place prior to closing provided the owner and the prospective new owner enter into a written legally-binding agreement prior to closing (1) to apply for and arrange an inspection within a specified period of time following the closing as prescribed by the Code Enforcement Office based on the facts of the case, (2) to remedy any defects discovered during such post-closing inspection, and (3) to otherwise comply with the provisions of this law. The selling owner and the prospective new owner shall be jointly and severally liable for full and satisfactory performance under said agreement and this Paragraph 3(c). For the purpose of this Local Law, "conveyance" shall mean a transfer of title to real property for monetary consideration.

4. No property owner shall effect a conveyance of real property upon which is situate a septic system subject to this local law unless either: (a) the owner provides documentation that the septic system has been inspected within one year prior to the closing of the conveyance, with any deficiencies having been corrected, or (b) the owner and the prospective new owner have signed a written agreement to arrange for a new inspection post-closing per the terms of Paragraph 3(c) of this Section D.

#### **Section E. Septic System Inspections.**

1. The inspection may include a septic tank pump out or dye test, if prescribed by the inspector prior to, during or subsequent to the inspector's being on site. In such case, the property owner shall arrange for the pump out and/or dye test at the convenience of the inspector. The property owner shall provide to the Code Enforcement Office whatever information the property owner possesses regarding the septic system, to assist in determining whether a pump out or dye test will be necessary. The property owner shall coordinate with the Code Enforcement Office as to any arrangements made. 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 within 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 following minimum standards shall apply to each inspection under this local law:
  - (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 (ETU), 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 onsite wastewater treatment system is determined to be failing or inadequate, a written Notice of Violation will be issued. 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 acknowledgment from the Code Enforcement Office within 12 months prior to the conveyance, the provisions of this Section have been met and no additional inspection shall be necessary to comply with this 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 (i.e. septic tank, aerobic treatment unit, enhanced treatment unit, etc.) 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 (into a drywell, over an embankment, into a roadside ditch or stream/tributary, etc.);

(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 of 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 time 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;

(i) A holding tank that discharges effluent to surrounding sub-surface areas;

(j) 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 local law must be sought from the Town Board of the Town of North Elba as 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 Town of North Elba Code Enforcement Office. Such forms must be properly filled out and must be submitted to the Town of North Elba Code Enforcement Office with payment of the applicable fee as established by the Town Board.
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 Town of North Elba Code Enforcement Office and/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 will be governed by the procedure set forth in Town Land Use Code Sections 8 and 9. 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 waterbody, 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.**

1. If a property owner fails to complete an inspection required by this local law, 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 the compliance with the inspection requirements.

2. An offense against any provision of this local law 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 local law 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 therefore, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this Local Law, 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 Local Law shall take effect immediately upon filing with the New York State Secretary of State.