

PROPOSED SEPTIC INSPECTION AT TRANSFER COMMITTEE

AGENDA

SEPTEMBER 22, 2021

Committee Members: Supervisors Braymer, Magowan, Frasier, Bruno, Leggett, Smith and Thomas

- I. Committee meeting called to order by Chair.
- II. Approval of minutes of prior Committee meeting
- III. Action Agenda/New Business Items:
None.
- IV. Discussion Items:
 - 1) Proposed Septic Inspection at Transfer Law
- V. Referrals/Pending Items: None.
- VI. Privilege of the Floor to discuss any additional items to come before the Committee
- VII. Motion to adjourn

Attachments:

- 1) Draft Septic Inspection at Transfer Law

**A COUNTY LAW ENTITLED:
“SEPTIC INSPECTION UPON TRANSFER”**

**BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WARREN COUNTY,
NEW YORK AS FOLLOWS:**

SECTION 1. COUNTY LAW # ___ of 2021 is hereby enacted as follows:

A. Title: This County Law shall be known as “Septic Inspection Upon Transfer” Law.

B. Statutory Authority: Enactment of this County Law is pursuant to powers vested in the Warren County Board of Supervisors pursuant to the provisions of New York State County Law, New York State General Municipal Law, New York State Home Rule Law, and New York State Public Health Law.

C. Intent and Findings: The intent of this County Law is to protect groundwater, surface water bodies and soils from contaminating exposure to excess nutrients and pollutants. Warren County finds that due to inadequate design, maintenance or operation, all septic systems have the potential to contribute pollution and harmful nutrients to the waters of Warren County. In addition, such septic systems pose a threat to public health with particularly acute impacts upon the general public through contaminated drinking water and can create widespread negative environmental impacts impairing recreational opportunities and contaminating precious ecological resources within Warren County.

D. Applicability: This County Law shall apply to all developed real property on which is located an onsite wastewater treatment system and which are situate within two hundred fifty feet (250) of the mean high water mark of the water bodies. Warren County finds that it is appropriate to include all developed real properties, situate within 250 feet from the mean high water mark of the water bodies specified in Appendix A and serviced by an onsite wastewater treatment system, regardless of the distance of the onsite wastewater treatment system from the water body. This County Law shall not apply in the City of Glens Falls, which has its own sanitary code enforcement office and few, if any, properties without sewer service. This County Law shall not apply in the Towns of Bolton, Chester, Queensbury, and any other municipality of Bolton or the Town of Queensbury so long as these local municipalities have which that maintain and enforce local laws regarding septic inspections upon transfer of real properties, which, at the time of adoption of this County Law, they do. ~~The County Law shall not apply to any municipality whose governing body passes a resolution to opt-out and not be subject to the provisions of this County Law.~~

E. Compliance Required: Except where specifically exempted by the provisions hereof, or otherwise exempted by the application of a Federal or State law, this County Law shall apply to all conveyances of real property title by deed or testamentary instrument transferring ownership of a developed real property serviced by a septic system where those premises are not exclusively serviced by a municipal sewer line and the septic system servicing the developed real property is located wholly or partially within Warren County, New York.

F. Definitions: The following meanings shall be ascribed to the words or phrases specific to this County Law:

1. **Conveyance:** The transfer of ownership of real property by a deed instrument or by a testamentary instrument.
2. **Developed property:** Real property which has been altered from its natural state by the creation or addition of any buildings, structures, pavement, excavation, or other improvements.
3. **Qualified Inspector:** A natural person, corporation or similar business entity who:
 - a) by authority, certification or license “in good standing” granted by the State of New York is a professional engineer, or septic system engineer/designer, or
 - b) by current certification, training or licensing in the discipline(s) of septic system design, septic installation and/or septic inspection such inspector has been trained by the New York Onsite Wastewater Treatment Training Network, Inc. (OTN), or equivalent training recognized by the New York State Department of Health or the New York State Department of Environmental Conservation, or
 - c) by current certification, training or licensing such inspector is qualified in the discipline of home inspections encompassing training in septic system inspections issued by the New York State Department of State, Division of Licensing Services, or
 - d) by current certification, training or licensing in the discipline of septic system design or septic system inspections such inspector is approved or authorized by the New York State Department of Health or the New York State Department of Environmental Conservation.
4. **OWTS Inspection:** A professional assessment of an onsite waste water treatment system, occurring in advance of the transfer of ownership to real property by deed or testamentary instrument to a new owner being conducted by a Qualified Inspector for the purposes of determining a septic system’s substantial satisfactory performance in compliance with the applicable New York State Department of Health Appendix 75-A and any local municipal requirements then in effect at the time of the permitted installation of the septic system.
5. **Septic system:** Any self-contained, underground, onsite wastewater devices or processes designed or installed for the collection and treatment of household, commercial or industrial effluents and/or sewage and where a municipal sewer service connection is not utilized at the developed real property. Also referred to in this Local Law as an **OWTS**.
6. **Wastewater:** Any water discharged through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device (e.g. water softener brine) which is produced in the house or property.

G. Inspection Prior to Conveyance of Real Property.

1. Prior to any conveyance of developed real property where the property utilizes an On-site Wastewater Treatment System ("OWTS"), the OWTS shall be inspected by a Qualified Inspector who shall certify in a written inspection report to the Warren County Fire Prevention and Building Code Enforcement Department (referred to hereafter as the "Code Enforcement Department"), the pre-conveyance condition(s) of the inspected OWTS. The form for the written inspection report shall be available from the Code Enforcement Department. The cost of the inspection shall be paid by the property owner.

2. The inspection report shall be on a form provided by the Code Enforcement Department and shall include the following items:

- a) The Location of the wastewater treatment system, including street address and tax map number of the developed real property.
- b) A general description of the wastewater treatment system.
- c) The dates of system construction and subsequent repairs or alterations to the system.
- d) A list of the wastewater generating fixtures which discharge into the system.
- e) A list of the distances from the property's seepage pits, leaching facilities from adjacent wells, and water bodies, if known.
- f) For a system with a valid State Pollution Discharge Elimination System (SPDES) permit, a copy of the current permit.
- g) Other information as may be necessary for the Code Enforcement Department to evaluate the written inspection report.

3. The OWTS inspection shall include a septic tank pump out by a New York State Department of Environmental Conservation registered septic hauler and all seepage pits and septic drain field distribution boxes accepting effluent from a septic tank must be uncovered and opened by the property owner or his or her agent prior to the inspection. The septic tank pump out and OWTS inspection shall be arranged by the property owner as early in the real property conveyance process as possible in order to secure an accurate and timely inspection of the OWTS.

4. The OWTS inspection shall utilize and conform to the rules, regulations, and standards promulgated by the New York State Department of Environmental Conservation and the New York State Department of Health, and the training materials of the New York On-site Wastewater Treatment Training Network, and where applicable the Adirondack Protection Agency, pertaining to the construction, operation, maintenance, and inspection of residential and commercial on-site wastewater treatment systems. The following minimum standards shall apply to each OWTS inspection:

- (i) A residential OWTS shall be in substantial compliance with the APPENDIX 75A of the New York State Department of Health Waste Water Treatment Standards for Residential onsite wastewater treatment systems and any local municipal requirements then in effect at the time of the permitted installation

of the septic system.

(ii) Where required by law, an OWTS shall be in compliance with any New York State Pollutant Discharge Elimination System (SPDES) Permit or permit issued by New York State Department of Health issued for the real property.

(iii) Where an OWTS has been determined after an inspection to be failing or inadequate, the Qualified Inspector shall notify the Code Enforcement Department and the Code Enforcement Department shall issue a written notice of violation and order to remedy to the real property owner. A compliance agreement between the Code Enforcement Department and the record owner, demonstrating a plan to correct each OWTS failure or deficiency shall be required prior to the conveyance of real property. The remediation plan shall be prepared by the record owner of real property or the owner's designee, vendee or consultant. Warren County Building Codes Department may engage an engineering consultant to review the remediation plan. The cost of an engineer's review and report, in the furtherance of resolving a notice of violation and order to remedy shall be at the expense of the record owner of the property unless otherwise allocated between the parties to the real property conveyance. The County shall be entitled to reimbursement for the engineer's review and report in resolving a notice of violation and order to remedy prior to the issuance of any Certificate of Satisfactory Septic Inspection.

5. No transfer of title of any developed real property subject to this County Law shall be considered complete and in compliance with the requirements of this County Law, until and unless:

(i) the owner/seller/transferor has obtained, from the Code Enforcement Department a Certificate of Satisfactory Septic Inspection demonstrating satisfactory compliance with this County Law, or

(ii) the owner/seller/transferor has obtained a variance from any requirement imposed hereunder issued by the County in accordance with the provisions of this County Law, or

(iii) the owner/seller/transferor has obtained a written approval for a deferral issued by the Code Enforcement Department in accordance with the provisions of this County Law, or

(iv) the conveyance is exempt from the pre-closing real property conveyance inspection requirements and the owner/seller/transferor qualifies within all applicable provisions for exemption as set forth in this County Law.

6. It shall be a violation of this County Law not to substantially conform to the OWTS inspection requirements specified herein. After the fact compliance in conformity with the requirements of this County Law shall be the obligation of the new owner of record of the real property whereby in good faith and under circumstances of oversight, lack of notice or other legitimate reason a pre-closing OWTS inspection and satisfactory

result did not occur prior to a real estate closing and transfer of title. Under such circumstances the new owner of the real property shall comply within one hundred twenty (120) days after notification from the County specifying all compliance requirements. Failure to comply with the requirements of this County Law shall constitute a violation.

7. Upon receiving proof of a satisfactory OWTS inspection, Code Enforcement Department shall issue in the name of the current property owner a written Certificate of Satisfactory Septic Inspection confirming that the OWTS has been inspected and the results of such inspection are in substantial conformity with the requirements of this County Law. Issuance of such a written certification dated within three years prior to the actual conveyance of the developed real property shall constitute presumptive proof of compliance with this County Law.

H. Exemption and/or Deferrals. Conveyances of developed real property may be eligible exempt or eligible for a deferral from the provisions of this County Law in the following situations identified below:

1. When the real property to be conveyed is not intended to be inhabited, and the owner plans to demolish each structure served by an existing OWTS, the property owner may receive an exemption from this Law. To qualify for an exemption under these circumstances the purchaser shall provide a signed, notarized affidavit to the Code Enforcement Department certifying that:

(a) any existing structure on the real property will not be inhabited and each dwelling shall be demolished with no plans to rebuild, or

(b) the structure(s) on the real property will not be inhabited, will be demolished and rebuilt in conformity with current OWTS requirements. A copy of the building permit application providing adequate detail sufficient to demonstrate a proposed compliant OSWT must accompany the affidavit.

2. A temporary deferral of the time requirements for an OWTS inspection or post inspection, repair or replacement may be authorized in writing by the Code Enforcement Department due to winter weather conditions or other constraints. To obtain a temporary deferral, the new owner/transferee must submit an affidavit to the Code Enforcement Department a notarized affidavit promising to obtain a complete and satisfactory OWTS inspection within six (6) months after the date of the conveyance of the real property.

3. Where the real property with an OWTS system is being conveyed from the County of Warren, a trustee in bankruptcy, a court appointed receiver, a court appointed referee, or upon execution by a judgment creditor in a Sheriff's sale, the new owner, purchaser or transferee, shall assume the obligations imposed by this County Law and compliance shall be required within six (6) months after the recording of the instrument of conveyance.

4. An OWTS inspection shall not be required as a pre-requisite to any conveyance when the Code Enforcement Department records contain an existing Certificate of Satisfactory Septic Inspection, or other OWTS inspection record of the developed real property's OWTS system having satisfied all of the requirements of this County Law, or a septic permit issued and approved and on file with the applicable local municipality evidencing satisfactory

inspection or new installation, within a period of three (3) years prior to the date of the proposed conveyance of the same property.

5. Where there is an existing OWTS on developed real property and the existing OWTS will be terminated, and the developed real property is to be connected to an existing and available municipal sewer service, and the municipal sewer service connection shall occur prior to or simultaneously with the conveyance of the real property, no OWTS Inspection shall be required and the property owner shall undertake a prompt removal of all existing OWTS components, and prompt remediation of the real property and structures so that the OWTS cannot be used in the future.

6. Upon a failure to complete any required OWTS inspection; or any failure to complete all OWTS repairs/installation requirements identified by the OWTS inspection within the time specified or any subsequent deadline extended in writing by the Code Enforcement Department, the County may pursue all enforcement opportunities available to the County, including all remedies available in law or equity.

I. Failure of OSWT. The inspected OWTS shall be deemed to be failing or be a substantial failure and/or the OWTS shall be considered a substantially non-compliant OWTS if the OWTS fails to meet the New York State Department of Health and/or New York State Department of Environmental Conservation standards for an OWTS of the kind inspected. A non-compliant or substantially unsatisfactory OWTS includes the following examples:

1. Lack of a pre-treatment vessel (e.g., no septic tank, no aerobic treatment unit, no ETU, etc.) prior to effluent discharge to any subsurface treatment (soil treatment area or absorption field);
2. Where there is a discharge of effluent directly or indirectly to the ground's surface, with surface breakouts, ponding or saturated soil areas;
3. Where there is a direct pipe surface discharge of grey water (~~into a drywell~~, over an embankment, into a roadside ditch or stream/tributary, etc.);
4. Where a dye test results in the presence of dye on the ground surface or found in an adjacent / downstream water body;
5. Where there is a backup of sewage into the dwelling building, septic tank or facility as a result of a system overload or malfunction, or a clogged soil treatment area;
6. Where the existing septic tank requires pumping more than four times per year and/or sewage, septage or effluent is observed upon inspection flowing back into the septic tank from the secondary treatment area during pump out;
7. the presence of a metal septic tank;
8. The presence of a cesspool, defined as a covered hole or pit used to receive untreated sewage from any occupied structure being utilized as a primary source of wastewater disposal;
9. The presence of a holding tank that discharges effluent to surrounding sub-surface

areas.

10. Where a septic tank, seepage pit, enhanced treatment unit (ETU) or soil treatment area (STA) upon inspection is found to be discharging to any outlet.

11. Every substantial failure or substantial non-conformity with the requirements of New York State Department of Health Appendix 75A or local municipal regulations.

12. Every substantial failure or substantial non-conformity with the requirements of a validly issued and current SPDES permit or New York State Department of Health approval permit.

J. Access to Parcel for Inspection. The Code Enforcement Department, upon reasonable notice and during regular business hours, unless required by emergency circumstances, shall be presumed to be authorized by the real property owner to enter the premises in order to determine compliance with this County Law.

K. Administrative Review. Appeals of any written determination of any County official or their agents and/or requests for a variance from the strict application of the requirements of this County Law shall be considered by the Environmental Concerns and Real Property Tax Services Committee ("Committee") or, if said committee does not exist, then the committee responsible for oversight of the Real Property Tax Services Department shall consider appeals and requests for a variance from the strict application of this County Law.

1. An administrative appeal shall be presented within sixty (60) days after the determination to be appealed is issued. The written appeal or request for a variance shall state the grounds for the relief sought. Each appeal and variance request submitted to the Committee shall be served upon the Director of Real Property Tax Services by mail to: Director, Real Property Tax Services, Warren County Municipal Center, 1340 Route 9, Lake George, New York 12845, and a copy shall be mailed to: Administrator, Warren County Fire Prevention and Building Code Enforcement Department, Warren County Human Services Building, 1340 Route 9, Lake George, New York 12845. There is no fee for submitting an appeal or a request for a variance.

2. The Committee shall conduct a public hearing, upon ten (10) days public notice to all owners of record owning real property within five hundred feet of the subject property. Such notice shall be by first class mail and may include a notice sent by email.

3. The Committee shall consider all relevant information, submitted by the applicant, all relevant environmental impacts, any relevant information obtained from the Code Enforcement Department, and any comments from the public. The Committee may take into consideration the age of the existing OSWT, whether the system appears to be satisfactorily functioning, its proximity to any water body, watercourse or stream, the circumstances concerning the appeal, the effect, if any, upon nearby real properties, the practical difficulties in strictly complying with the requirements of the County Law, any undue hardship to the property owner and all other matters relevant to the issue as determined by the Committee.

4. In evaluating appeals or requests for variances, the applicant shall be required to demonstrate by a preponderance of the evidence that the enforcement of any specific

provision of this County Law imposes a practical difficulty or undue hardship upon the applicant's developed real property.

5. If additional information is required, the Committee may direct a subsequent inspection of the OWTS at issue.

6. The Committee's decision shall be considered a final determination subject to further appeal pursuant to an Article 78 proceeding in any court of competent jurisdiction.

7. Duties imposed upon owners of real property by the application of this County Law shall not be considered delegable or transferable to any third party unless expressly provided for herein or consented to by a resolution of the Committee.

L. Notice of Violation and Penalties

1. The Code Enforcement Department is authorized to administer and enforce this Local Law. If an OWST fails an inspection, the Code Enforcement Department shall issue in writing to the developed real property owner of record, a notice of violation and order to remedy the failing condition. Such notice and order shall specify the violation and grant such time as may be reasonably necessary to achieve compliance before a proceeding to compel compliance shall be commenced.

2. In the event that any developed real property owner or occupant of the developed real property is issued a notice of violation and order to remedy, or a subsequent real property owner is deemed to be in violation of this County Law, in either case, each specific allegation of a failure to comply shall constitute a separate violation.

3. Each violation of any provision of this County Law shall constitute a separate violation, punishable by a fine not to exceed Five Hundred Dollars (\$500.00). Each month any violation continues after service of a notice of violation and order to remedy upon the responsible person(s) such offense shall constitute a separate violation when separately charged. The civil penalties provided by this subdivision shall be recoverable in an action or proceeding commenced in the name of Warren County on its own initiative or at the request of the Administrator of the Department of Fire Prevention and Building Code Enforcement.

4. An action or proceeding in the name of Warren County may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this local law. Such remedy shall be in addition to penalties otherwise prescribed by law.

SECTION 2. Severability

Where any clause, sentence, paragraph, subdivision, section, or part of this County 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 thereof, and such adjudication shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this County 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 3. Effective Date

This County Law **shall take effect** on June 1, 202~~2~~⁴.

APPENDIX A LIST OF WATER BODIES

1. Lake George
2. Schroon Lake
3. Schroon River
4. Brant Lake
5. Loon Lake
6. Lake Luzerne
7. Hudson River
- 7,8. Friends Lake

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Evolution of the proposed County septic inspection at transfer law

Date: April 21, 2021

By: Claudia Braymer

Summary

The idea for the County septic inspection at transfer law has developed over the last couple of years. The County Environmental Concerns and Real Property Committee currently has a proposal before it that would require third party inspections at transfer, for properties located within 250 feet of certain water bodies, specifically listed in Appendix A of the law. An inspection report would then be provided to the Warren County Building Codes Department for review and determination on a plan for corrective action, if needed. The law does provide some exceptions when it would not apply (e.g., where the building will be demolished, or where the property will be connected to sewer), and it does have an appeals process through the County.

Background information on the development and evolution of the concept for the law, and the wording of the language

At the January 22, 2019 meeting of the Environmental Concerns and Real Property Committee the idea of a County septic law was first suggested by a representative from the Adirondack Lakes Alliance:

Mr. Simpson introduced Ed Greismer, Executive Director, Adirondack Lakes Alliance, who distributed information on Adirondack Lakes Alliance. He explained why they started in 2014 and what their mission was. Mr. Greismer stressed there were no paid staff members working for the Adirondack Lakes Alliance, as all were highly trained volunteers. He apprised they were a partnership program bringing resources to lakes and rivers. Mr. Greismer mentioned the Town of Queensbury Septic Law and suggested the County also look into creating a similar law. Jane Smith, Associate Director, Adirondack Lakes Alliance, added it was also a problem with watersheds which were in every community, emphasizing it was not just a problem with lakes and rivers.

At the March 18, 2019 meeting of the Environmental Concerns and Real Property Committee we were given an update on the New York State Septic System Replacement Program through NYSDEC:

Tammie DeLorenzo, Assistant to the County Administrator, to provide an update on the New York State Septic System Replacement Program. Ms. DeLorenzo stated the County was in the process of reviewing the report from Chris Navitsky, Lake George Waterkeeper, and planned to meet with him, as well as with Glen Lake Association to review bodies of water with public access, noting it was not restricted to Lake George and she requested any organizations with data on water quality for lakes and rivers in Warren County to submit them to her office, as it would be helpful information to present to NYSDEC. She said Upstate Counties were receiving up to \$200,000, with up to \$10,000 for each project; therefore, she said, the collection of data

was used to help determine which project would make the most difference for the amount of money received.

At my April 18, 2019 town hall with constituents and Councilwoman Palmer, I discussed the idea of a County septic inspection at transfer law. No concerns raised.

At the April 22, 2019 meeting of the Environmental Concerns and Real Property Committee we passed a resolution authorizing participation in the NYSDEC's State Septic System Replacement Program:

Tammie DeLorenzo, Assistant to the County Administrator, addressed the first item listed concerning septic inspection/State funding. She advised she had worked with the Department of Planning and Community Development on a grant in hope of being placed on the list of eligible Counties to receive funding to help homeowners with failing septic systems in Warren County. She mentioned NYSDEC (New York State Department of Environmental Conservation) was looking for water bodies where the water quality could be effected. Beth Gillis, Executive Director, Lake Champlain-Lake George Regional Planning Board, notified in order to participate in the program homes had to be within a certain distance of the water* and the funds were only available for permanent residence. Mr. Wallace recommended that they consider having a design specialist inspect the septic systems. Motion was made by Mr. Simpson, seconded by Mr. Strough and carried unanimously in favor of authorizing the Chairman of the Board of Supervisors to send a letter to NYSDEC requesting that Warren County be identified as a participating County in the New York State Septic System Replacement Program and the necessary resolution was authorized for the May 17th Board Meeting.

A copy of the letter to NYSDEC is attached to the email with this memo.

*The distance from water is 250 feet.

At the May 6, 2019 County Planning Group meeting, Dave Hatin (Town of Queensbury) provided an update on the Town of Queensbury's implementation of the Town's septic inspection law. The Town was receiving numerous requests for inspections, there were many failures (e.g., distribution box problems, seepage pits). There was some discussion at that meeting about whether the County should use third party inspectors, as Bolton is doing. There was also discussion about the County requiring a "certificate" of inspection, and having the program implemented/administered at the Town level. Dan Barusch (Town/Village Lake George) discussed its inventory of septic systems 500' from Lake George and 100' from AA streams. Also discussed updated septic system laws, and prioritization of systems that need funding for upgrades based upon site suitability (or lack of suitability).

September 2019, Lake George Association representative indicated to me support for the Countywide septic inspection proposal.

At my September 16, 2019 town hall with constituents and Councilwoman Palmer, I again discussed the idea of a County septic inspection at transfer law. No concerns raised. In attendance were Kathy Bozony and Travis Whitehead.

At the October 1, 2019 meeting of the Environmental Concerns and Real Property Committee we received a presentation from the realtors' association representative that indicated support for a septic inspection at transfer law:

Connor Gillis, Government Affairs Field Representative, Southern Adirondack Realtors, who provided a PowerPoint Presentation entitled "National Association of Realtors Warren County, NY Smart Growth Survey June 2019" which he reviewed in detail; a copy of the presentation is on file with the meeting minutes.

The presentation, a copy of which is attached to the email with this memo, stated:

Strong support for requiring septic system inspections when selling a home. Eight-in-ten residents support requiring a septic system inspection upon the sale of a home or property so that any problems found can be fixed at that time. Most of those (six-in-ten overall) STRONGLY support the proposal. Even among those who own septic systems, 78 percent are in support (55 percent strongly). Reducing pollution in local lakes and rivers strongest reason to support inspection requirement. Nearly two-thirds of residents said they are MUCH more likely to support the proposal (84 percent more likely overall) when they hear the goal of the law is to make sure broken septic systems are repaired in order to reduce pollution leaking into local lakes and rivers. Only 32 percent say they are less likely to support it when they hear that septic system repairs range from a few thousand dollars to tens of thousands of dollars.

Notably, at October 1, 2019 meeting the Committee also passed "a resolution supporting protection of all Warren County Water Resources."

At the October 3, 2019 South Adirondack Realtors Association real estate forum there was a session (with many realtors and several attorneys present) on the septic inspection at transfer laws in Queensbury and Bolton. I raised the possibility of the County septic inspection at transfer law, in collaboration with the NYSDEC septic replacement program. Feedback for the proposal was positive.

At the November 19, 2019 meeting of the Environmental Concerns and Real Property Committee we received a presentation from Chris Belden, in the County Planning Department:

Mr. Belden provided a Power Point presentation entitled "Septic Inspection Upon Property Transfer" and answered questions posed by the Committee. Ms. Braymer suggested that private residents have their septic inspected upon the transfer of property.

A copy of the presentation is attached to the email with this memo.

On December 16, 2019, the "septic inspection working group", consisting of myself, Chris Belden, Lexie Delurey, Chris Navitsky, Ed Griesmer, Sean Roggee and Kim Bullard, met to discuss initial ideas and challenges for a County law. No major decisions made.

On February 4, 2020, the “septic inspection working group” met again to continue discussions. The group considered various angles and here were my takeaways on approaches:

- Don't reinvent the wheel (QBY and Bolton laws are working well);
- Provide consistency throughout the County for landowners, realtors, and attorneys;
- Use/allow third party inspections, rather than County (or Town) staff;
- Include all types of properties rather than targeting only residential or only commercial;
- Include properties that are within a certain distance from waterbodies because there are no County zoning districts, and the main purpose of the law is to protect surface water quality from contamination (rather than make the law applicable to ALL properties throughout the County; contrary to Bolton's law, which applies to all properties in the Town regardless of proximity to a waterbody).
- Include properties within 250' of the waterbodies identified in the NYSDEC Septic System Replacement Program, so that the property owners impacted by the implementation of the law could potentially obtain funding to help with the upgrade/replacement costs;
- Provide exemptions for certain properties, as set forth in the QBY law (e.g., where the building is to be demolished);
- Need an appeals process (through the full Board of Supervisors? Chairman? Real Property Director?) to appeal decisions made by the County Building and Codes Department. Settled on a process that will allow an appeal to the Environmental Concerns and Real Property Committee, similar to the “last chance meeting” held as part of the County foreclosure process.

Based upon these discussions, I drafted the proposed septic inspection at transfer law that was provided to the Environmental Concerns and Real Property Committee for the August 25, 2020 committee meeting. A copy of the proposal is attached to the email with this memo.

At the August 25, 2020 meeting of the Environmental Concerns and Real Property Committee there was discussion (but no real decisions) regarding:

- Other Towns may have septic inspection laws in effect (e.g., Chester has one that is not being enforced, and Horicon may develop one), so should those Towns also be excluded?
- Adding more lakes, particularly those over 20 acres in size, with public access, and that serve as drinking water (should we add Garnet Lake? Friends Lake? Others?)?

Also, Chris Belden provided the following comments that should be incorporated into the draft law, but have not been incorporated:

- Add a definition for “developed property:
- Under D. Applicability, add
 - o “from the mean high water mark”, following “within 250 feet...”
 - o “or any other municipality”, following “Bolton and Queensbury [add Chester]” – to avoid needing to revise the language in the future

- Add language that would require notification be provided to the local municipality by Warren County Building Codes if a failure is identified. Add that Warren County Building Codes will confirm that repairs/replacements made to septic systems (pursuant to this County Law) have been properly permitted by the local municipality.

At the September 10, 2020 Environmental Concerns and Real Property Committee we had a brief discussion of the proposed law:

Ms. Braymer commenced review of the Environmental Concerns agenda, beginning with discussion regarding the Septic Inspection at Transfer Law. She advised Robert Terwilliger, Second Assistant County Attorney, had made some changes to the proposed Law; she advised she had not brought her copy of the Law with her today and she suggested this matter be discussed further at the next Committee meeting. Mr. Dickinson informed he was not in favor of the Law and did not want it to pertain to the Town of Lake George. Ms. Braymer advised the Finger Lakes required inspections every three months, not at transfer, she asked Mr. Dickinson to send her the septic guidelines the Town of Lake George used and Mr. Dickinson agreed to do so. Mr. Strough said the Town of Lake George already had a team in place to handle inspections and he suggested that the County provide inspections for the other towns; Mr. Dickinson said he agreed with this suggestion. Mr. Strough then proceeded to outline a number of areas of the proposed Law which may require review and revision. Ms. Braymer indicated that the Law would be discussed further at the next Committee meeting.

Supervisor Strough's comments included:

- Have the law only be effective for municipalities that use the County's Code Enforcement.
- However, some municipalities do code enforcement for septic disposal.
- Should the law apply to properties within 500', rather than 250', of waterbodies?

In addition, Supervisor Simpson questioned the variance process, considering that his Town Board acting as local board of health typical hears these. He asked if it would be reviewed by the Local Board of Health. As drafted, the Local Board of Health does not have a direct role in implementation of the law.

After the September 10, 2020 Committee meeting, I attempted to reach out to stakeholders who had not been involved before, including Brendan Wiltse, Ph.D., Water Quality Director, Adirondack Watershed Institute. He expressed support for the proposal and sent along a copy of the Town of North Elba's recently passed septic law, which requires periodic septic system inspections at regular intervals for properties in specific zoning districts.

Presentation to the Water Quality Strategy Committee in October 2020. No significant concerns raised.

February 2021 Environmental Concerns Committee Meeting – Supervisor Dickinson tabled discussion to next meeting (no meeting held in March)

WARREN COUNTY SEPTIC INSPECTION PROGRAM

Included in the Booklet:

- 1) Copy of Local Law
- 2) FAQs
- 3) Inspection Report form
- 4) List of NYS Licensed Septic Haulers

INSERT COPY OF WARREN COUNTY LOCAL LAW

Frequently Asked Questions:

- 1) What is a Septic System Maintenance Program?
Septic systems are designed to treat household or commercial wastewater onsite. A re-occurring program of attention to the system including "pump outs" and visual inspection of the septic tank is important.
- 2) What is the purpose of the local law?
Warren County has taken the initiative to require, upon the event of the transfer of title to real property serviced by a septic system, that there be an inspection before the transfer of ownership to determine that the septic system functions without major defect.
- 3) When did the local law take effect?
The effective date of the local law is September 1, 2021, 2021.
- 4) What does the local law require?
A Certified Inspector is to visually inspect the septic system and report to Warren County that the septic system does satisfactorily function.
- 5) Why are properly functioning septic systems important?
Disposal and treatment of wastewater onsite must be properly done to protect the environment, public health, and property values.
- 6) Why is my septic system being inspected?
In anticipation of a pending real estate transfer of ownership it is an important public policy to protect the environment, public health, and property values.
- 7) When should my septic system be inspected?
Generally, weather permitting and circumstances allowing, prior to the deed transfer of ownership of the property.
- 8) What if my system is working, but is old and not up to code?
The septic inspection program provides a considerable allowance for older septic systems that upon inspection function satisfactorily. Generally, the code requirements to be applied will be the code then enacted at the time of the installation. In any event, however, regardless of the code requirements to be applied, if a system does not function satisfactorily upon inspection, a system failure is likely to be determined.
- 9) Do I have to do anything to prepare for the inspection?

Forms for inspection and criteria to be followed by a Qualified Inspector are available from Warren County in printed media and on the website:

<http://warrencountyny.gov>

10) Who will complete the inspection?

Only a Qualified Inspector as defined in the Local Law shall be authorized to complete an inspection. It is important to note that once a Qualified Inspector has been engaged to undertake the inspection and report the results to Warren County, that same person or firm shall not then be authorized to undertake any repair or replacement to a failed system as the inspection policy is to ensure that each Qualified Inspector shall be independent from the actual process of repair or replacement on the same project.

11) If I have just had my septic tank pumped out does it still require inspection?

An inspection under the septic inspection program is not exempted or excused by a recent septic tank pump out.

12) Will you be inspecting anything else on my property?

The intent of the septic inspection program is not to intrude beyond the scope of a septic system inspection and it is intended that the inspector shall be limited to ensuring satisfactory septic system performance.

13) Do I need to provide maintenance records?

No records are required if they do not exist, however, they would be of great assistance to a Qualified Inspector.

14) Will you be testing my potable water?

No

15) Where can I find a list of inspectors?

A list of Qualified Inspectors is available from Warren County and published on the website.

16) What if weather has caused a delay in the inspection?

The septic inspection program provides some flexibility for situations where weather or seasonal issues will cause a delay in the opportunity to inspect the septic system. Please contact the Warren County Code Enforcement Office to make arrangements for such circumstances.

17) Are there any exemptions?

A septic system that has had a satisfactory septic inspection program inspection within the previous 3 years is generally exempt.

18) Are there any automatic failures?

The septic inspection program specifies criteria that will result in an automatic failure. These automatic failures are enumerated in the Local Law. Please contact the Code Enforcement Office to discuss this issue if you anticipate an automatic failure.

19) Is there a cost for an inspection?

Warren County imposes no inspection fee. However, Qualified Inspectors who act as a private contractor may impose a charge for their services. Those details will be arranged directly between the property owner and the Qualified Inspector. Other costs depend upon nature of the septic system and the result of the inspection may include engineer design costs as well as expenditure for repair or replacement.

21) Who is responsible to pay for the inspection?

The real property owner is responsible to pay for the inspection.

22) Is the payment made to the County or the inspector?

The County imposes no fee or cost for the inspection, unless a review by the County's consulting engineer becomes necessary.

23) What if my circumstances do not allow strict compliance with the local law requirements?

The Local Law allows any person or business that cannot meet specific requirements of septic inspection program to apply to the Warren County Environmental Concerns and Real Property Tax Services Committee to apply for a variance or appeal from the strict application of any requirement.

**WARREN COUNTY INSPECTION PROGRAM
INSPECTION REPORT**

Part A (1) applies to a Residential Onsite Wastewater Treatment System only.

RESIDENTIAL: To be completed by the residential property owner/authorized agent

Residence and Owner Identification (Please Print Information Below)

Residence owner: _____
Residence address: _____
Mailing Address: _____
Tax Map #: _____
Telephone: _____ Cell: _____
Email: _____

Owner's Authorized Agent: _____
Company Name: _____
Address: _____
Telephone: _____ Cell: _____
Email: _____

Residence Information

Owner -occupied _____ Rental _____ Full-time _____ Seasonal _____

If seasonal, # weeks per year: _____

Last known date of occupancy: _____ Number of occupants: _____

Age of residence: _____ # of bedrooms: _____ # of bathrooms: _____

Water-saving fixtures? Yes No

Home business or hobby? (e.g. daycare, photography, taxidermy, salon): Yes No

Explain: _____

Household Potable Water source:

Public _____ Spring _____ Other _____ Location: _____

Well _____ How many wells? _____ Well: Drilled _____ Dug _____ Location: _____

Year installed: _____ Depth (ft.) _____

List all public or private buried utilities

Type: Electric _____ Cable/Internet _____ Telephone _____ Gas/Propane _____
Irrigation: _____ Other: _____ (solar, wind, or generator etc.)

Be sure to contact DIG SAFELY NEW YORK—DIAL 811 or 1-800-962-7962

PARCEL REPORT PART A (1) (continued)
Residential Onsite Wastewater Treatment System (continued)

Residential Onsite Wastewater Treatment System (s)

How many systems are on the property? _____ Year system(s) installed: _____

Are all system components wholly within the property boundaries? Yes No

Are system plans available? Yes No

Does the system(s) serve multiple properties? Yes No

If yes, describe: _____

Residential System Maintenance

Service agreement? Yes ____ No ____ If yes, vendor name: _____

Date of last inspection: _____ Date of last tank pump out: _____

Frequency of pumping: _____

List any known repairs/replacements, with approximate dates:

<u>Date</u>	<u>Type of repair or replacement</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Residential System Operation (Circle answer)

System problems? Yes No Sewage odors? Yes No

Direct surface discharge(s)? Yes No Back-up of toilets? Yes No

Back Up of any other fixtures? (i.e. slow drains) Yes No

Seasonal ponding or breakout of leachfield? Yes No

All house drains go into the system? Yes No If No, explain: _____

PARCEL INSPECTION REPORT PART A (2)
Commercial Onsite Wastewater Treatment System

NON-RESIDENTIAL/COMMERCIAL PROPERTIES ONLY: To be completed by the property owner/authorized agent.

Commercial Property and Owner Identification (Please Print Information Below)

Commercial Property owner: _____
Name of Lessee/Occupant if different: _____
Facility Name: _____
Mailing Address: _____
Tax Map #: _____
Commercial Property address: _____
Telephone: _____ Cell: _____
Email: _____

Owners Authorized Agent: _____
Company Name: _____
Address: _____
Telephone: _____ Cell: _____
Email: _____

Commercial Permits or Commercial Authorization (Issued for the Non-Residential Property if any)

New York State Dept. of Health (Circle Answers)

Permit #: _____ Date of last inspection. _____
Any remedial actions requested? Yes No
Date of completion: _____ Copy of last inspection enclosed? Yes No
Copy of Temporary Residence Inspection Report NYS DOH Part 7, Subpart 7-1 Temporary Residences
(Hotels, Motels and Cabin Colonies) Yes No

New York State Dept. of Environmental Conservation (Circle Answers)

General Permit GP-0-15-001 Yes No Permit ID # _____
SPDES Permit #: _____ Please provide a copy of SPDES Permit
Date of last inspection. _____
Any remedial corrections requested? Yes No Date of completion: _____
Copy of last inspection enclosed? Yes No

PARCEL INSPECTION REPORT COMBINED PART A (1) and (2)

General Requirements For All Residential OR Commercial Onsite Wastewater Septic System Inspections:

Owner agrees to:

- Ensure that the septic tank(s), distribution box(es), and/or seepage pit(s), if any, will be uncovered prior to the scheduled inspection;
- Have an authorized NYS Waste Transfer Permit Hauler on site (to pump the tank "after" the inspector arrives, tank must be pumped in presence of inspector);
- Have an authorized representative present at the site to provide access inside the dwelling or structure for inspection;
- Allow the inspector to verify information provided above, and to conduct an inspection of the indicated onsite wastewater treatment system(s), including all system components, and interior and exterior plumbing.

To the best of my knowledge, the information provided herein is accurate and complete.

Signature of property owner or authorized agent:

Owner: _____

Date: _____

Agent: _____

Date: _____

Be sure to contact **DIG SAFELY NEW YORK**—DIAL 811 or 1-800-962-7962

PARCEL INSPECTION REPORT PART B
THIS REPORT SHALL BE COMPLETED BY THE CERTIFIED INSPECTOR AND SUBMITTED TO THE
WARREN COUNTY CODE ENFORCEMENT OFFICE

From: _____
(INSPECTOR PLEASE PRINT)

Re: Septic System Inspection Site Report for:

Owners Name: _____

Tax Map #: _____

Location: _____
(SITE ADDRESS)

As requested, an inspection of the onsite wastewater system components serving the property referenced above has been performed. All system components may not have been located, accessible or observed, and any adverse impact on the groundwater quality or any body of surface water has not been assessed beyond what may be noted in the following section(s).

INSPECTORS OBSERVATIONS: (SELECT ONE OPTION)

1. PASS _____ System appears to have functioned adequately under past and present loading. There can be no assurance or guarantee of future performance for any period of time. Numerous factors, such as household water usage, leaking toilets, soil characteristics, and seasonal groundwater table fluctuation, as well as owner failure to manage and maintain the system, will affect its future performance.
2. FAIL _____ System/components indicate unsatisfactory operation or performance.
(Check all reasons for OSWT failure)
 - 2.a. _____ Unsatisfactory treatment tank or other critical component(s)
(e.g. d-box, pump chamber, baffles).
 - 2.b. _____ Apparent structural damage.
 - 2.c. _____ Evidence of wastewater breakout or direct discharge.
 - 2.d. _____ Evidence of prolonged high liquid level in dispersal area.
 - 2.e. _____ Failed dye test. (If applied)
 - 2.f. _____ Other _____
(Explain)

If OSWT inspection indicates a FAIL, notice to the Code Enforcement Office shall be provided by the Qualified Inspector before end of the next business day. Written notice shall be provided within 10 business days.

3. DELAY _____ Due to weather conditions, lack of information provided, and/or inaccessibility to all system components, the inspection results are incomplete.

PARCEL INSPECTION REPORT PART B (cont.)

Failed Inspection Comments/Evaluation: (required)

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page, possibly from a composition book. The edges of the paper are slightly irregular, suggesting it might be a scan of a physical document. There is no handwriting or other markings on the page.

If possible provide a detailed sketch of all existing components of the septic system and their separation distances on the attached grid sheet.

****IMPORTANT****

This OSWT System Inspection Report excludes components that were concealed or otherwise not observable. The Inspection Findings address the present condition of the OSWT but shall not constitute, or warranty the future performance of the OSWT or its components.

Date: _____ Inspector Registration number (If applicable): _____

Inspector's signature: _____

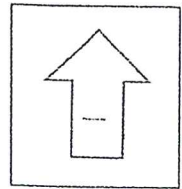
Print Name: _____

PARCEL INSPECTION REPORT PART B (cont.)

SYSTEM SITE SKETCH

Owner: _____
Tax Map # _____
Location: _____
Date of inspection: _____

Indicate Direction

[illegible]

WARREN COUNTY SEPTIC INSPECTION PROGRAM

12 POINT CHECK OFF LIST FOR CERTIFIED INSPECTOR

Complete each item and submit this check list with the Inspection Report

- ___ 1. Water was on in the structure and the septic tank was surcharged verifying flow from all faucets and drain pipes into the system.
- ___ 2. The inlet/outlet covers of the septic tank were exposed and removed and the baffles/filters were found intact and clean.
- ___ 3. The distribution box was exposed and the cover open for inspection.
- ___ 4. The distribution box was found to be level or had speed levelers installed.
- ___ 5. The distribution box effluent level was found at or near the bottom of the outlet pipes and satisfactorily accepts effluent when tank was surcharged.
- ___ 6. Seepage pits (if any) were exposed and the cover(s) open for inspection.
- ___ 7. Any pump stations were open and covers exposed for inspection, all pumps, floats, alarms, and shut offs function satisfactorily.
- ___ 8. Any grinder pumps were exposed, accessible for inspection, and functioning satisfactorily.
- ___ 9. Authorized NYS Septic Waste Transport Hauler pumped the septic or holding tank(s) after a water flow test into the system was completed.
- ___ 10. An adequately sized septic tank or holding tank had no leakage after pumping, holding tank floats, alarms, and shut offs function satisfactorily.
- ___ 11. If the system is an Enhanced Treatment Unit (ETU):
Indicate Last date of service: _____ and provide copy of maintenance contract.
- ___ 12. Any one condition listed in Section (I) of Local Law constitutes a system failure.