

**Approve Local Law No. 3 of 2007:**

**RESOLUTION 07-126**

**RESOLUTION ADOPTING LOCAL LAW # 3 OF 2007**

**(Swimming Pools)**

At a Regular Meeting of the Town Board of the Town of Lansing held in and for the Town of Lansing at the Lansing Town Hall on 20th day of June, 2007, the following members being present: Stephen Farkas, Supervisor; Francis Shattuck, Councilperson; Connie Wilcox, Councilperson; Martin Christopher, Councilperson; and Matthew Besemer, Councilperson; and the following members being absent: none; and the following motion for a Resolution was duly made by motion of Connie Wilcox, and was duly seconded by Martin Christopher; and the vote was as follows: Steve Farkas - aye; Francis Shattuck – aye; Connie Wilcox – aye; Martin Christopher – aye; Matthew Besemer - aye; and the following Resolution therefore passed 5-0, and was duly adopted:

WHEREAS, the Town of Lansing believes that many non-compliant swimming pools exist within the Town because the Building Codes allow construction permit renewals that can create a situation where the pool is under permit to be built, but also in use, even though compliance with the Building Codes does not yet exist or is not yet required; and

WHEREAS, this situation poses a threat to the safety and health of residents of the Town of Lansing, and particularly to children in proximity to such swimming pools; and

WHEREAS, said Local Law proposes to (1) define certain terms, including “Swimming Pool” (vessel contained water having a depth over 24” or an area exceeding 150 square feet), (2) require building permits for pools consistent with the NYS building and fire codes, (3) make such permits renewable for successive periods of time not to exceed 3 months per permit, with no more than 3 renewals of any permit, and completion being required within 12 months of the date of issuance of the first permit therefor, (4) require the issuance of Certificates of Occupancy or Certificate of Compliances, as applicable, (5) require the filling in or removal of any swimming pool for a failure to comply with the Local Law, (6) permit the setting of fees for permits and renewals, (7) provide inspection and enforcement powers, (8) provide for civil and criminal penalties and fines for violations, and (9) provide certain powers and protections to and for the Town; and

WHEREAS, a Public Hearing was duly at the Lansing Town Hall, 29 Auburn Road, Lansing, New York, being in the Town of Lansing, on the 20<sup>th</sup> day of June,

2007, at 6:10 o'clock P.M., to consider the Adoption of Local Law Number 2 of 2007, and all persons interested in the subject thereof were duly heard; and

WHEREAS, upon due deliberation thereon, the Town Board of the Town of Lansing, in its capacity as governing body of the Town of Lansing, does hereby pass, adopt, and approve Local Law Number 2 of 2007, as set forth in its entirety below:

**“TOWN OF LANSING, TOMPKINS COUNTY, NEW YORK  
LOCAL LAW NUMBER 3 OF 2007**

**CONTRUCTION AND INSTALLATION OF SWIMMING POOLS**

SECTION 1: TITLE & APPLICATION - This Local Law shall be known as “Local Law Number 3 of 2007”. Local Law Number 3 of 2007 applies only within those portions of the Town of Lansing, Tompkins County, New York, that are outside of the Village of Lansing. This Local Law does not replace or supplant any requirements of the New York State Building and Fire Code and the New York State Energy Code (herein together, the “Building Codes”), nor any provision of Local Law Number 6 of 2006 (Code Enforcement) of the Town of Lansing.

SECTION 2: PURPOSE – The Town of Lansing believes that many non-compliant swimming pools exist within the Town because the Building Codes allow construction permit renewals that can create a situation where the pool is under permit to be built, but also in use, even though compliance with the Building Codes does not yet exist or is not yet required. The Town Code Enforcement Office and the Town Board have determined, and hereby declare, that such problem poses a threat to the safety and health of residents of the Town of Lansing, and particularly to children in proximity to such swimming pools.

SECTION 3: DEFINITIONS – The following terms and phrases have the following meanings:

- A. “CEO” means the Town Code Enforcement Officer, the Town Building Inspector, and/or the Town Electrical Inspector, and/or their respective designees.
- B. “Person” shall mean any individual, corporation, limited liability company, partnership, or other group or entity.
- C. “Swimming pool” means any water (or body of water) contained by a vessel usually, but not exclusively, formed or constructed of steel, concrete or fiberglass that is capable of containing over 24 inches

in water depth and/or which has a surface area exceeding 150 square feet.

- D. "Town" means the Town of Lansing, New York.
- E. "Town Board" means the Town Board of the Town of Lansing, New York.

SECTION 4: SWIMMING POOL PERMITS - All Swimming Pools (and related appurtenances, water supplies, and drainage systems, and other features thereof) shall be constructed in conformity with the Building Codes and Town of Lansing Local Law #6 of 2006 (Code Enforcement). Notwithstanding any other requirement of law or of the Building Codes or said Local Law #6 of 2006, the following rules shall apply to the issuance and renewal of building and other permits for the construction of Swimming Pools:

- A. All permits shall be renewable for successive periods of time not to exceed 3 months per permit.
- B. No more than 3 renewals of any permit shall be permitted.
- C. The Swimming Pool shall be completed within 12 months of the date of issuance of the first permit therefor. "Completed" means properly built and constructed, in compliance with the Building Codes and Local Law #6 of 2006, duly inspected, and for which a Certificate of Occupancy or Certificate of Compliance has issued, as applicable.
- D. If on the 12 month anniversary of the issuance of the first permit the Swimming Pool has not received a Certificate of Occupancy or Certificate of Compliance, as applicable, then the Swimming Pool shall be filled in with dirt and tightly tamped (or filled with another hard substance as approved by the CEO), or removed in its entirety.
- E. The CEO may set the fees for issuance of permits, and renewals thereof.

SECTION 5: INSPECTION – The CEO shall have authority to enter upon any premises as may be deemed necessary to inspect work done and installations made under permits issued by the building department.

SECTION 6: VIOLATIONS AND PENALTIES - In addition to any other right or remedy allowed by law or in equity, the Town Board may maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision or requirement of this Local Law. Any violation or non-compliance with this Local Law may be restrained or otherwise abated in any manner provided by law. In addition, the following fines and penalties may be imposed for the violation of, or non-compliance with, this Local Law, and the following rules apply:

- A. Any Person that violates any of the provisions of this Local Law shall be (1) guilty of a criminal offense and subject to a fine of not more than \$300.00, or (2) subject to a civil penalty of not more than \$500.00 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue. The Town may commence any one or more civil proceedings in the Town Court, or any other court of competent jurisdiction, to recover its damages and costs of enforcement, including, but not limited to, consequential and incidental losses, costs, expenses, and damages, and including reasonable attorneys' and experts' fees.
- B. The CEO shall have the power to issue appearance tickets as the same are defined in Article 150 of the New York Criminal Procedure Law.
- C. Nothing herein shall prevent the CEO from authorizing both criminal and civil proceedings at the same time.
- D. Until compliance with this Local Law has occurred, and any fine or penalty is fully paid (and/or compliance with any court order occurs), the CEO may withhold the issuance of any permit or certificate.

SECTION 7: EXCULPATION - The Town shall not be responsible for any loss, damage or injury to persons or property arising from or in connection with the enforcement or non-enforcement of this Local Law, but if any monetary liability is imposed, the award shall not exceed \$1,000.00 per person per incident. If any such responsibility or liability is sought to be imposed, the Town shall not be responsible or liable unless it is proven that the Town acted intentionally or with reckless disregard.

SECTION 8: AMENDMENTS – The terms, benefits, and provisions of this Local Law may be amended from time to time, in the discretion of the Town Board. Publication of a notice of public hearing pertaining to the amendment of this Local Law shall be and be deemed sufficient notice to any affected Person of any amendment(s) hereto.

SECTION 9: SEVERABILITY - If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Local Law shall be adjudged invalid by a court or other tribunal of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law. Any such invalidity shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment

shall have been rendered. If any of the requirements of this Local Law, or the application thereof to any Person or circumstances, is held invalid, the said requirements shall remain valid and enforceable as to any other Person or other circumstances.

SECTION 10: EFFECTIVE DATE - This Local Law shall be and become immediately effective upon filing in accord with § 27 of the Municipal Home Rule Law.”; and it is further

RESOLVED, that the Town Clerk shall file a copy of this Local Law with the NYS Attorney General as required by law.

SEQRA: Type II