

**TOWN BOARD SPECIAL MEETING
TOWN HALL, MAHOPAC, N.Y.**

A Special Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 11th day of January 2017 at 7:19 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schneider, Councilman Lupinacci, Councilwoman McDonough, Councilman Lombardi and Supervisor Schmitt.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces as well as in honor of the recent passing of New York City Police Department Detective Steven McDonald upon suffering a massive heart attack. Supervisor Schmitt dedicated the meeting to Detective McDonald who became a symbol of courage and forgiveness after being paralyzed in the line of duty 30 years ago.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 37, HEREOF, ENTITLED "ALARM DEVICES AND SYSTEMS"

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town's official newspapers:

LEGAL NOTICE
NOTICE OF
PUBLIC HEARING
NOTICE IS HEREBY
GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, January 11, 2017 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law amending the Code of the Town of Carmel, Chapter 37 hereof, entitled "Alarm Devices and Systems":
TOWN OF CARMEL
PROPOSED LOCAL LAW
OF THE YEAR 2017
BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:
SECTION 1
This Local Law shall be known as 2017 Amendments to Chapter 37 entitled "ALARM DEVICES AND SYSTEMS".
SECTION 2.
Section 37-1 "Definitions" of Chapter 37, specifically the definition(s) set forth as currently existing in Section 37-1 is hereby amended to read as follows:

**POLICE AND/OR FIRE
ALARM DEVICE**

Any device, which when activated by fire or any other emergency transmits a signal, alert, prerecorded message or other indication directly to any law enforcement facility and/or any centrally stationed monitoring facility for the purposes of eliciting response by law enforcement, fire department or any other emergency response personnel.

**SECTION 3 –
HOME RULE**

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

**SECTION 4 –
SEVERABILITY**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be

confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 5 –
EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

By Order of
the Town Board
of the Town of Carmel
Ann Spofford, Town Clerk

With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:22 p.m. Seventeen (17) people were in attendance.

Justin Stenerson, resident of Stoneleigh Woods, stated that each unit in their complex has an alarm system that is not connected to the police department, fire department or any other emergency services. He asked if the amendment is enacted, would they be exempt from the annual fee.

Supervisor Schmitt confirmed with Mr. Stenerson that these condominiums have a pull cord alarm system that delivers an audible alarm and flashing light, and does not signal a central station. He then replied that if the proposed Local Law is enacted, the \$40 annual fee would no longer apply to them.

Mr. Stenerson asked when the law would go into effect.
(Cont.)

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Supervisor Schmitt replied that it would go into effect after a vote is taken that is approved by the Town Board.

Councilman Lupinacci pointed out that while residents with only a pull cord alarm system will not be charged a fee, those who maintain another alarm that is tied to a central monitoring station such as ADT or CIA, would be charged for the secondary system.

Supervisor Schmitt expressed his concern that logistically the application of the Local Law could be difficult for the Comptroller's Office, the department that processes the alarm permits each year. He stated with 900 senior housing units in the Town that have a pull cord system, it will be problematic to determine which units have an alarm that is monitored by a central station as well. He voiced his apprehension that voluntary compliance by homeowners will be successful.

Councilman Lombardi indicated that he met with homeowners at the home of Mr. Bell to discuss the matter.

Supervisor Schmitt interjected that out of respect for the office, the Town Supervisor should have been invited by those homeowners to participate in that meeting.

Councilman Lombardi stated that when he met with the homeowners, those who had alarm systems tied to a central monitoring station said that they would be more than happy to pay the annual fee. He pointed out that the Town Code indicates that if an alarm goes off and no fee has been paid, the homeowner will be fined.

Councilwoman McDonough suggested monitoring false alarms for unpermitted systems in an effort to get homeowners to register their system.

Councilman Lupinacci asked if the proposed Local Law addresses that an alarm system must be registered.

Gregory Folchetti, Legal Counsel, stated that it does not. The amendment was strictly definitional, based upon what was requested to clarify. He noted that there is currently a provision in the Town Code that an alarm system must be either registered or permitted. Mr. Folchetti added that there is no difference with respect to this circumstance than compliance with any other provision in the Town Code. Similar to the responsibility to be on a property owner to obtain a certificate of occupancy for finishing a basement, if noncompliance is discovered, there are consequences. He stated that the Town is somewhat at the mercy of the property owners in that they have to disclose if they have a system on the property and if it is connected to a central station, they must identify who their monitoring company is.

Mr. Folchetti went on to explain that the pull cord alarms are a condition for a special exemption use permit under the Town Code §156-39. At the time of the enactment of the law with regard to senior housing, it was thought to be best for the safety of the demographic to which the housing units were being marketed to. He stated that when it was discovered three or four years ago that these property owners were not getting billed, billing was imposed. Mr. Folchetti concluded that the mechanism for ensuring that people register their alarm systems when they are connected to a central station can be reviewed if the legislation is passed in this form.

Joanne Lawson, resident of Stoneleigh Woods asked who is Mr. Bell.

Councilman Lombardi replied that Mr. Bell is a resident of the Retreat at Carmel.

Ms. Lawson asked if there are ways to have those residents who have alarms register them.

(Cont.)

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Councilman Lombardi replied that they should be doing that already.

Ms. Lawson suggested that there should be strong wording added that there will be a fine.

Supervisor Schmitt stated that he is working with the Comptroller’s Office on it now. A letter will be going out with the new applications.

Ms. Lawson asked if the Town will be returning the \$40 fee paid last paid last year by the effected residents.

Councilman Lombardi stated that the law will apply moving forward.

Councilman Lupinacci summarized that currently a \$40 fee is charged for any alarm. The debate is whether or not the fee should apply to any alarm, even those that are not tied to a central station and do not generate false alarms. The proposed Local Law if adopted would change the definition with regard to an alarm so that property owners will only be charged for alarms tied to a central station.

Ms. Lawson noted that the alarm system is just a light and made no sound. She believed that its purpose is to direct emergency responders to the location of the exact unit. Ms. Lawson thanked the Town Board for their consideration of the issue.

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Lombardi, seconded by Councilwoman McDonough, with all members of the Town Board present and in agreement, the Public Hearing was closed at 7:38 p.m.

Supervisor Schmitt posed the question to the Town Board as to what they would like their next step to be. Councilwoman McDonough stated that she would like to move the matter forward. Discussion continued regarding the matter.

SEQR DETERMINATION OF SIGNIFICANCE - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 37 ENTITLED “ALARMS DEVICES AND SYSTEMS” - TYPE II ACTION

RESOLVED that the Town Board of the Town of Carmel hereby determines that, proposed Local Law #___ of 2017 concerning amendments to Town of Carmel Town Code Chapter 37 entitled “Alarms Devices and Systems” is a Type II action under SEQR and no further review is necessary.

Resolution
Offered by: Councilman Schneider
Seconded by: Councilman Lombardi

| <u>Roll Call Vote</u> | <u>YES</u> | <u>NO</u> |
|-----------------------|------------|-------------------|
| Jonathan Schneider | <u>X</u> | <u> </u> |
| John Lupinacci | <u>X</u> | <u> </u> |
| Suzanne McDonough | <u>X</u> | <u> </u> |
| Frank Lombardi | <u>X</u> | <u> </u> |
| Kenneth Schmitt | <u>X</u> | <u> </u> |

The resolution was offered by Councilman Schneider and seconded by Councilman Lombardi. Prior to the roll call vote, Supervisor Schmitt deliberated the possibility of offering a motion to table the resolution until it can be resolved as to how the billing will be processed. After discussion, however, he did not offer a motion to table consideration of the SEQR determination. Supervisor Schmitt continued with the roll call vote.

CONSIDER MOTION TO ENACT LOCAL LAW - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 37, HEREOF, ENTITLED “ALARM DEVICES AND SYSTEMS” - TABLED

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TOWN OF CARMEL
PROPOSED LOCAL LAW #__ OF THE YEAR 2017
A LOCAL LAW AMENDING THE CODE OF THE TOWN OF CARMEL, CHAPTER 37
HEREOF, ENTITLED "ALARM DEVICES AND SYSTEMS"

BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:

SECTION 1

This Local Law shall be known as 2017 Amendments to Chapter 37 entitled "ALARM DEVICES AND SYSTEMS".

SECTION 2 Section 37-1 "Definitions" of Chapter 37, specifically the definition(s) set forth as currently existing in Section 37-1 is hereby amended to read as follows:

POLICE AND/OR FIRE ALARM DEVICE

Any device, which when activated by fire or any other emergency transmits a signal, alert, prerecorded message or other indication directly to any law enforcement facility and/or any centrally stationed monitoring facility for the purposes of eliciting response by law enforcement, fire department or any other emergency response personnel.

SECTION 3 - HOME RULE

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 4 - SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5 - EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

MOTION TO TABLE

Resolution

Offered by: Supervisor Schmitt
Seconded by: Councilman Schneider

| <u>Roll Call Vote</u> | <u>YES</u> | <u>NO</u> |
|-----------------------|-------------------|-------------------|
| Jonathan Schneider | <u>X</u> | <u> </u> |
| John Lupinacci | <u>X</u> | <u> </u> |
| Suzanne McDonough | <u>X</u> | <u> </u> |
| Frank Lombardi | <u> </u> | <u>X</u> |
| Kenneth Schmitt | <u>X</u> | <u> </u> |

(Cont.)

Supervisor Schmitt offered a motion to table consideration of enacting the proposed Local Law until he stated, it can be identified which of the 13,000 parcels within the

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Town have non-applicable alarms and until such time as it can be determined how the billing process will be executed.

Councilman Schneider seconded the motion. He added his concern that if the proposed Local Law is enacted at this time, there is the possibility that 900 residents will be receiving a bill that may not be technically applicable.

Councilwoman McDonough questioned with this matter under consideration by the Town Board for approximately one year, why the issue with regard to billing was not brought up sooner.

Supervisor Schmitt indicated that he has brought the issue up from the start.

Councilwoman McDonough referenced Legal Counsel's earlier comments and reiterated that similar to when property owners add a deck to their home, notification to the Town would be based upon the honor system.

Councilman Lombardi stated that he will be voting no on the motion to table because the Town is already aware of where the pull cord alarms exist. They are located in the senior housing units. He suggested that a check box be added on those bills to indicate a pull cord alarm and a check box added to indicate that an alarm is tied to a central station. If the property owner checks that they have a central monitored alarm, they pay the fee. Councilman Lombardi admitted that property owners may not report their central monitored alarm. However, he pointed out that if the police report to a property with an unregistered alarm, the owner will have to pay the fee and may be charged a penalty as well. Discussion continued.

Supervisor Schmitt concluded that tabling the motion does not mean that the proposed Local Law will not be brought up again, only that more time is needed to work out the logistics of how the bills will be processed.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 25 HEREOF, ENTITLED "RESIDENCY REQUIREMENTS"

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town's official newspapers:

| | | |
|---|---|---|
| <div>LEGAL NOTICE</div> <div>NOTICE OF PUBLIC HEARING</div> <div>NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, January 11, 2017 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law amending the Code of the Town of Carmel, Chapter 25 hereof, entitled "Residency Requirements" as follows:</div> <div>TOWN OF CARMEL</div> <div>PROPOSED LOCAL LAW</div> <div># OF THE YEAR 2017</div> <div>A LOCAL LAW TO</div> <div>AMEND THE CODE</div> <div>OF THE TOWN OF</div> <div>CARMEL,</div> <div>CHAPTER 25 HEREOF,</div> <div>ENTITLED "RESIDENCY</div> <div>REQUIREMENTS"</div> <div>BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:</div> | <div>SECTION 1.</div> <div>The Office of Town Attorney of the Town of Carmel is hereby established.</div> <div>SECTION 2.</div> <div>The provisions of Section 3 of the Public Officers Law of the State of New York requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he will be chosen or within which his official functions are required to be exercised is hereby amended. The Town Attorney of the Town of Carmel must only be a resident of the County of Putnam.</div> <div>SECTION 3.</div> <div>The provisions of Section 25 of the Town Law of the State of New York requiring the Town Attorney of the Town of Carmel to be an elector of the Town is hereby amended. The Town Attorney of the Town of Carmel must only be an elector of the County of Putnam.</div> | <div>SECTION 4.</div> <div>This Local Law shall take effect immediately in accordance with the Town Law of the State of New York.</div> <div>At said Public Hearing, all</div> <div>interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.</div> <div>By Order of</div> <div>the Town Board</div> <div>of the Town of Carmel</div> <div>Ann Spofford, Town Clerk</div> |
|---|---|---|

(Cont.)

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With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 8:01 p.m. Fourteen (14) people were in attendance.

With no one present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all members of the Town Board present and in agreement, the Public Hearing was closed at 8:02 p.m.

SEQR DETERMINATION OF SIGNIFICANCE - PROPOSED LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 25 HEREOF, ENTITLED "RESIDENCY REQUIREMENTS" - TYPE II ACTION

RESOLVED that the Town Board of the Town of Carmel hereby determines that, proposed Local Law #1 of 2017 concerning amendments to Town of Carmel Town Code Chapter 25 entitled "Residency Requirements" is a Type II action under SEQR and no further review is necessary.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilman Lupinacci and Councilwoman McDonough

| <u>Roll Call Vote</u> | <u>YES</u> | <u>NO</u> |
|-----------------------|------------|-------------------|
| Jonathan Schneider | <u>X</u> | <u> </u> |
| John Lupinacci | <u>X</u> | <u> </u> |
| Suzanne McDonough | <u>X</u> | <u> </u> |
| Frank Lombardi | <u>X</u> | <u> </u> |
| Kenneth Schmitt | <u>X</u> | <u> </u> |

LOCAL LAW #1 OF THE YEAR 2017 - A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL, CHAPTER 25 HEREOF, ENTITLED "RESIDENCY REQUIREMENTS" - ADOPTED AS NOTICED AND PUBLISHED

TOWN OF CARMEL
LOCAL LAW #1 OF THE YEAR 2017
A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF CARMEL,
CHAPTER 25 HEREOF, ENTITLED "RESIDENCY REQUIREMENTS"

BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:

SECTION 1. The Office of Town Attorney of the Town of Carmel is hereby established.

SECTION 2. The provisions of Section 3 of the Public Officers Law of the State of New York requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he will be chosen or within which his official functions are required to be exercised is hereby amended. The Town Attorney of the Town of Carmel must only be a resident of the County of Putnam.

SECTION 3. The provisions of Section 25 of the Town Law of the State of New York requiring the Town Attorney of the Town of Carmel to be an elector of the Town is hereby amended. The Town Attorney of the Town of Carmel must only be an elector of the County of Putnam.

SECTION 4. This Local Law shall take effect immediately in accordance with the Town Law of the State of New York.

(Cont.)

Offered by: Councilman Lupinacci

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Seconded by: Councilwoman McDonough

| <u>Roll Call Vote</u> | <u>YES</u> | <u>NO</u> |
|-----------------------|------------|-------------------|
| Jonathan Schneider | <u>X</u> | <u> </u> |
| John Lupinacci | <u>X</u> | <u> </u> |
| Suzanne McDonough | <u>X</u> | <u> </u> |
| Frank Lombardi | <u>X</u> | <u> </u> |
| Kenneth Schmitt | <u>X</u> | <u> </u> |

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all Town Board members present and in agreement, the meeting was adjourned at 8:08 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk