

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JAN 08 2004

**MISCELLANEOUS
& STATE RECORDS**

~~COUNTY~~
~~CITY~~ of TARRYTOWN
~~TOWN~~
Village

Local Law No. 12 of the year 2003

A local law Moratorium on Wetlands Development that Affects Wetlands
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~ of TARRYTOWN as follows:
~~TOWN~~
Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**VILLAGE OF TARRYTOWN
LOCAL LAW 12-2003**

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

In their natural state, wetlands serve multiple functions, including:

- [1] protecting water resources by providing sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins, and/or functioning as settling basins for naturally occurring sedimentation;
- [2] controlling flooding and stormwater runoff by storing or regulating natural flows;
- [3] providing unique nesting, migratory and wintering habitats for diverse wildlife species, including many on the New York State and Federal Endangered Species lists;
- [4] supporting unique vegetative associations specifically adapted for survival in low oxygen environments and/or brackish or salt water;
- [5] providing areas of unusually high plant productivity which support significant wildlife diversity and abundance;
- [6] providing breeding and spawning grounds, nursery habitat, and food for various species of fish;
- [7] serving as nutrient traps for nitrogen and phosphorus, and filters for surface water pollutants;
- [8] helping to maintain biospheric stability by supporting particularly efficient photosynthesizers capable of producing significant amounts of oxygen, and supporting bacteria which processes excess nitrates and nitrogenous pollutants and return them to the atmosphere as inert nitrogen gas;
- [9] providing open space and visual relief from intense development in urbanized and growing areas; and
- [10] serving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology.

Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting, and other acts inconsistent with the natural uses of such areas. Remaining wetlands are in jeopardy of being lost, despoiled, or impaired by such acts, contrary to the public safety and welfare.

It is therefore the policy of the Village of Tarrytown to protect its citizens, including generations yet

unborn, by preventing the despoliation and destruction of wetlands while taking into account varying ecological, economic, recreational, and aesthetic values. Activities that may damage wetlands should be located in upland areas.

During a public meeting held on March 3, 2003, Deputy Mayor Domenic Morabito moved a resolution which was adopted by the Board of Trustees regarding the possible development of areas adjacent to or within close proximity of the remaining wetlands within the Village of Tarrytown, the impact development would have on this environmentally critical area and the viability of the remaining wetlands within the Village of Tarrytown.

After careful deliberation, the Board of Trustees of the Village of Tarrytown has determined that the remaining wetlands are important community and natural resource which must be preserved and protected for current and future residents of the Village. The Board of Trustees has found that the Village's current Zoning Code does not contain adequate legislation which will accomplish this aim. Under the current Zoning Code, significant portions of the Village's remaining wetlands are zoned for various forms of use which may be incompatible with this goal. In accordance with these determinations, the Board of Trustees believes that it is necessary to enact a temporary moratorium so that the Board can, during the pendency of the moratorium, adopt resolutions and/or local laws necessary to implement necessary changes to the zoning code which will both maintain wetlands within the Village and protect the health and safety of the residents of Tarrytown.

B. Legislative Intent.

It is the intention of the Board of Trustees of the Village of Tarrytown to analyze within the designated moratorium period: [a] the impact of any proposed development on wetlands which remain within the Village and the impact on the health, safety and environmental concerns of the Village and [b] if necessary adopt any resolution and or enact any local law to protect the limited wetlands found to be critical to the health, safety and general welfare of the current and future residents of Tarrytown. These actions are to be taken pursuant to the Board's power to protect and enhance the Village's physical environment and to protect the well being of persons or property within the Village. Since a period of time will be necessary to enable the Board of Trustees to accomplish these actions the Board does hereby adopt a temporary moratorium on any proposed development which will change or impact any wetlands area within the Village pursuant to the same powers enumerated above and Municipal Home Rule Law Sections 10, 20 and 22.

SECTION 2. SCOPE OF CONTROLS

During the effective period of this law as provided in Section 8 below, the Building Inspector of the Village of Tarrytown shall not accept, approve or process applications for, or issue, building permits which would result in the erection of any structure or site improvement in the area of application as set forth in Section 4 below. Furthermore, during the effective period of this law as provided in Section 8 below, the Planning Board, the Architectural Review Board and the Zoning Board of Appeals will not approve any application which would result in the erection of any structure or site improvement in the area of application as set forth in Section 4 below.

Notwithstanding the above, the provisions of this Local Law shall not be applicable to any applications for which a Final Environmental Impact Statement has been prepared, accepted as complete by the lead agency, the public hearing (if any) was closed and the public comment period has expired as of the effective date of this Local Law.

SECTION 3. PENALTIES

Any person, firm, entity or corporation that shall violate any of the provisions of this local law shall be subject to penalties as otherwise provided by law or ordinance of the Village of Tarrytown for violation of the provisions of a local law, and shall be subject to injunctive relief to remove any construction which may have taken place in violation of this local law.

SECTION 4. APPLICATION

This law shall apply to Development that affects Wetlands located within the Village of Tarrytown.

For the purposes of this section, wetlands are defined as:

[a] all wetland and adjacent area as defined in Chapter 173 of the Code of the Village of Tarrytown

[b] all lands, waters and adjacent areas of the Village of Tarrytown that meet the definition provided in subdivision 24-0107.1 of the New York State Freshwater Wetlands Act [Article 24 of the Environmental Conservation Law] and 6 NYCRR Part 663.2.

[c] All areas that comprise hydric soils and/or are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of hydrophytic vegetation as defined by the Federal Manual for Identifying and Delineating Jurisdictional Wetlands as defined herein by the Federal Interagency Committee of the U.S. Army Corps of Engineers. Wetland areas include vernal pools.

SECTION 5. VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such invalid part or parts.

SECTION 6. SUPERSEDING OTHER LAWS

A. All ordinances or local laws or parts thereof in conflict with the provisions of this local law are hereby suspended or superseded to the extent necessary to give this local law full force and effect during the effective period.

B. During the duration of this law, it shall supersede inconsistent provisions of the New York State Village Law, including but not limited to sections 7-706, 7-712-a, 7-712-b, 7-718, 7-725-a, 7-725-b, 7-728, and 7-730.

SECTION 7. HARDSHIP

A. The Board of Trustees shall have the power to vary or modify the application of any provision of this local law upon its determination, in its absolute legislative discretion, that such variance from strict compliance with this local law will not be detrimental to the Village's physical and/or visual environment or the well-being of persons or property within the Village and upon finding that the application of the provisions of this local law to a specific property will cause unnecessary hardship and that such hardship is unique to that specific property.

B. Upon receiving written application for such variance, the Board of Trustees shall hold a public hearing within thirty (30) days of the receipt of such application. Within fifteen (15) days of the close of the public hearing the Board shall render a written decision either granting or denying the application. If the Board of Trustees determines that the strict application of this local law creates unnecessary hardship to the particular property, then the Board of Trustees shall vary the application of this local law to the minimum extent necessary. The granting of an appeal for relief by the Village Board of Trustees shall authorize and permit the Planning Board, Zoning Board, Architectural Review Board and/or Building Inspector to accept, review, consider and/or otherwise act.

C. Pursuant to Article 78 of the Civil Practice Laws and Rules, any party aggrieved by the determination of the Board of Trustees on an application for a variance may appeal said decision to the Supreme Court, State of New York, within thirty (30) days of the filing of said decision in the office of the Village Clerk.

SECTION 8. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law, and shall remain in force for six (6) months unless extended.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 12 of 2003.. of the ~~(County)~~(~~City~~)(~~Town~~)(Village) of Tarrytown was duly passed by the Board of Trustees on 11/17 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

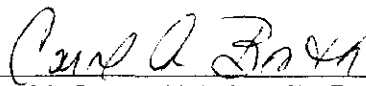
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

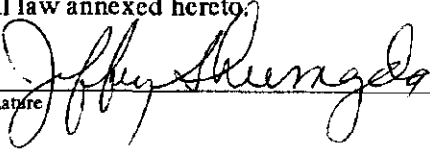
(Seal)

Date: November 17, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature
Jeffrey Shumejda, VILLAGE ATTORNEY

Title

County
City of TARRYTOWN
Town
Village

Date: November 17, 2003