

*Local Law Filing*

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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.

**FILED  
STATE RECORDS**

**NOV 09 2011**

County

City of Cooperstown

Town

Village

Local Law No. 29

**DEPARTMENT OF STATE** year 2011

A local law Amendment to Watershed Regulations and Procedures

(Insert Title)

Be it enacted by the Board of Trustees of the

(Name of Legislative Body)

County

City of Cooperstown as follows:

Town

Village

To amend Village Charter revised March 29, 1972, Appendix C, as amended by Local Law #1 of 2004 and Local Law No. 5 of 2006 – Watershed Regulations and all other provisions of Village Charter Appendix C as amended by Local Law #1 of 2004 and Local Law No. 5 of 2006 – Watershed Regulations remain intact.

See attached.

January 31, 2004 rev. January, 2006 rev June 2011

## A. MISSION OF THE OTSEGO LAKE WATERSHED SUPERVISORY COMMITTEE

### I. HISTORY AND AUTHORITY

On January 22, 1985, Section 1100 of the NYS Public Health Law was amended by Section 136.3 to Part 136 of Chapter III of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York, referred to herein as Public Law 1100. “This Law shall apply to Otsego Lake and all water courses tributary thereto or which may be developed in the future to serve as sources of water supply of the Village of Cooperstown in the towns of Otsego, Middlefield and Springfield...” excluding “any areas not within Otsego County and, in addition, shall also exclude Allen Lake and its tributary water courses”.

Public Health Law Section 136.3 (d) (6) (ix) states; “Before any existing sewage disposal system is altered or any new septic system is constructed on the watershed, the plans in relation thereto shall have first been approved by the Board of Water Commissioners of the Village of Cooperstown. Standards for water treatment works as published from time to time by the New York State Department of Health shall comprise the criteria to approve any proposed sewage disposal system. For existing systems that cannot meet these standards due to lot restriction, the guidelines shall be as outlined by the Board of Water Commissioners”.

The Village of Cooperstown Water Board established the Watershed Supervisory Committee (WSC) in 1985 as a means to administer Public Law 1100 on behalf of the Water Board with representation from each of the affected municipalities, two members from the Village and one member from each of the Towns (5 members in all).

In 1994 the Otsego Lake Watershed Council was established with “representatives from the Towns of Middlefield, Otsego and Springfield and the Village of Cooperstown” with participation from the public and a broad base of stakeholders for the purpose of preparing a management plan for the Otsego Lake watershed. “A Plan for the Management of the Otsego Lake Watershed” was published in April, 1998, and subsequently endorsed for implementation by each of the municipalities noted above. Page 7 of the 1998 Plan presents a list of recommendations containing 14 items. Item 13, “Plan Administration and Financing”, states in part “Continue and further define the Otsego Lake Watershed Supervisory Committee’s role in coordinating the management of the lake and watershed”.

The Watershed Council voted itself out of existence in March, 2003, whereupon the Otsego County Water Quality Coordinating Committee (WQCC), a broadly based coalition of environmental groups, voted to accept the responsibility for continued management of the 1998 Plan on March 31, 2003.

## II ORGANIZATION

1. The Otsego Lake Watershed Supervisory Committee (WSC) shall administer Public 1100 and local laws which are established for the purpose of protecting Otsego Lake as a public water supply, and shall be guided by the 1998 Plan for the Management of the Otsego Lake Watershed in carrying out their responsibilities. Advice and guidance will be given by the Otsego County Water Quality Coordinating Committee (WQCC).
2. Membership shall consist of two members from the Village of Cooperstown and one member each from the Towns of Middlefield, Otsego and Springfield. Appointments shall be for two years, except that initial appointments during reorganization may be staggered to promote smooth transfers.
3. The Village Water Board Chairman will communicate with the Chief Executive Officer of each respective municipality and seek concurrence on the proposed appointee's qualifications and abilities.  
The Village Water Board will vote to decide on the appointments to the WSC.

## III WATERSHED SUPERVISORY COMMITTEE MEETINGS

The WSC shall meet routinely during the first week of the month, in order to precede the monthly Water Board meeting. Normally meetings will be held in the Village Building. Special meetings will be held as needed upon the call of the Chairman. Meetings may be cancelled during the winter months. Three members of the WSC shall constitute a quorum.

## IV DUTIES

1. The WSC will develop and promulgate Management Regulations for Onsite Wastewater Treatment Systems (OWTS) in the Otsego Lake Watershed.
2. The WSC will implement these regulations by a system of inspection of these systems that lie within 500 feet of the shoreline of Otsego Lake or 100 feet from one of its tributaries, an area referred to as the Zone of Protection. Inspection shall be both periodic and upon transfer of property or failure of a system.
3. The Watershed Supervisory Committee shall employ a Watershed Coordinator and a Systems Inspector.
- 4.
5. Duties of the Coordinator shall include:
  - a. Organizing and maintaining an inventory of Watershed OWTS on a suitable computerized filing system.
  - b. Planning and supervising a five-year rotation of inspections of all septic systems in the Otsego Lake Zone of Protection.
  - c. Reviewing engineering designs of new and replacement OWTS, and presenting them to the WSC for approval.
  - d. Overseeing the installation of OWTS in Otsego Lake's Zone of Protection.
  - e. Assisting in hiring inventory takers and inspectors.
  - f. Organizing training of inventory takers, inspectors, and contractors.
  - g. Organizing an educational program for Watershed property owners

## WSC Organization

- h. Preparing status reports for the WSC, and organizing meetings.
- i. Managing watershed issues that threaten the lake as a drinking water supply.
- j.

Duties of the Inspector shall include:

- a. Scheduling and conducting inspections of OWTS in the Otsego Lake Zone of Protection.
- b. Coordinating inspections with wastewater haulers.
- c. Documenting inspection findings with reports and photos.
- d. Recommending pass/fail of OWTS to WSC based on inspection findings.
- e. Inspecting and documenting OWTS upgrades.
- f. Maintaining OWTS files.
- g. Attending WSC meetings.

## V. DEFINITIONS

1. Definitions found in Section (b) of Section 136.3 of the Public Health Law 1100 and in Appendix 75-A of Section 201(1) (1) of the Public Health Law shall apply.
2. The shore line of Otsego Lake shall be defined as the edge of the water at a lake height of 1194.5' above sea level. This is essentially equal to 1.5' above the concrete surface of the dam at Mill St.
3. A tributary stream to Otsego Lake shall be defined as being listed in the Department of Environmental Conservation "Index of Waters".
4. WSC: Otsego Lake Watershed Supervisory Committee.

## B. MANAGEMENT REGULATIONS FOR ONSITE TREATMENT SYSTEMS

### I. PURPOSE

The purpose of these regulations is to protect the water quality of Otsego Lake. These standards are established to protect public health by ensuring adequate performance of onsite wastewater treatment systems (OWTS), and so to optimize the effectiveness of the systems at removing pathogens and nutrients from wastewater.

### II. APPLICABILITY

The provisions of these regulations shall be in effect in the Municipalities of Cooperstown and the Towns of Middlefield, Otsego and Springfield, and shall include the land within 500 feet of the shoreline of Otsego Lake, and within 100 feet of feeder streams to Otsego Lake having a DEC index of waters number. (Zone of Protection.)

### III. VALIDITY

If any section, paragraph, subdivision, or provision of this Law shall be judged invalid or held unconstitutional, the same shall not affect the validity of this Law as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

#### IV. WASTEWATER SYSTEM INSPECTIONS

The Watershed Coordinator, Systems Inspector, and Town Codes Enforcement Official (Codes Official) shall be allowed to make regular visits to wastewater treatment systems in the Zone of Protection for purposes of inspection, observation and testing. It shall be the duty and obligation of the wastewater system owner to supply, upon request to the Watershed Coordinator, Systems Inspector, or municipal Codes Official, available information regarding wastewater system type, capacity, location, usage, age, maintenance, etc. in order to determine the system's effectiveness. Data gathered during an inspection will be included in a wastewater treatment system inventory of all systems covered by this Law, and maintained on behalf of the Otsego Lake Watershed Supervisory Committee.

#### V. APPROVAL OF NEW OR MODIFIED SEPTIC SYSTEMS

1. Systems farther than 500 feet from the Lake or 100 feet from a tributary:  
Codes Official approves or denies, report to WSC.  
All designs of new or replacement systems in the Zone of Protection shall be reviewed and approved by the WSC, with notification sent to County Codes. These systems must be built in accordance with an engineer-designed plan, or have been approved by the NYS Department of Health.
2. Holding Tanks.  
The installation of a holding tank system for household wastewater will not be allowed within 500 feet of Otsego Lake unless granted an individual variance by the Otsego Lake Watershed Supervisory Committee (WSC). The following conditions must be met before a variance is granted:
  - (A) A site survey is conducted by a New York State Licensed Professional Engineer (P.E.).
  - (B) A determination is made by the engineer that the site is not suitable for an onsite treatment system, including alternative design systems, and that the only option for handling wastewater is a holding tank.
  - (C) A report is sent to the WSC on the findings of the site survey, which would include the reasons the site is not suitable for an onsite system.
  - (D) The design of the holding tank system is done by the engineer, and is in accordance with WSC standards.

#### VI. INSPECTIONS OF EXISTING SYSTEMS

**These regulations cover onsite systems located 500 feet or less from the shoreline of Otsego Lake or 100 feet or less from a tributary stream to the lake.**

Systems installed within two (2) years of a property transfer or a regular inspection can obtain an inspection waiver by submitting a copy of the installed system design stamped by a Professional Engineer. Tanks that have been pumped out within one (1) year of a property transfer or regular inspection can obtain a waiver on septage pumping by submitting a copy of a bill for septage hauling services.

1. Regular Onsite System Inspections

- (A) All onsite wastewater treatment systems covered as indicated above will be inspected once every five (5) years by a certified WSC inspector.
- (B) If the system passes the inspection, a Certificate of Compliance will be issued with copies to the homeowner and Watershed Coordinator.
- (C) If the system fails the inspection, a written Notice of Violation will be issued as per Section VII. Property owners have up to 30 days to contact the WSC with their plan for corrective action.
- (D) For alternative design non-conventional systems, also know as Enhanced Treatment Units (ETU's), the owner must provide a copy of the service contract to the inspector at the time of the inspection.

2. Property transfers

Onsite wastewater treatment systems should be inspected and tanks pumped within 30 days before the transfer of property, at the expense of the seller. It is recommended that property transfer inspections and pumping be arranged by the property owner as early in the selling process as possible in order to obtain an accurate assessment of the system. (Note: If the system has been inspected within 5 years of the expected transfer, and the owner presents a Certificate of Compliance issued by the WSC, the inspection at property transfer will be waived.)

- . For ETU systems, the owner must send a signed copy of a service contract to the WSC within 30 days after property transfer.

3. Reported Violations

- (A) Onsite systems shall be inspected following any reported violation. These inspections are performed by municipal Codes Enforcement Officers or certified WSC inspectors.

## VII. VIOLATIONS

1. Whenever it shall appear to a septic system Inspector that a system is not performing properly, it shall be reported to the Watershed Coordinator, who shall further report it to the Watershed Supervisory Committee.
2. Whenever it shall be determined by the Watershed Supervisory Committee that a wastewater system is inadequate, a written Notice of Violation will be sent to the property owner, specifying the nature of the violation, the required corrective action, and the date by which corrective action shall be completed. The owner of the wastewater system has up to 30 days from receipt of the Notice of Violation to contact the WSC. Completion of the work detailed in the Notice of Violation shall be performed within the time period specified, not to exceed one year. Any violation beyond that date shall be dealt with as follows:
  1. If a property owner does not respond to a Notice of Violation (NOV) regarding their septic system, or refuses to allow the Watershed Supervisory Committee (WSC) to inspect their septic system, the WSC shall seek a legal remedy to resolve the violation through the property owner's town codes enforcement..
  2. A Certified letter will be sent to the property owner, with a copy to the town enforcement officer, informing the owner that legal remedies include the seeking of imposing a fine of up to \$500 (and/or imprisonment of up to 15 days) for each week of future uncorrected violation. Additionally, the town has the authority to seek injunctive relief, which would be a court order either requiring the property owner to correct the violation or authorizing the WSC to do so at the owner's expense.
  3. The property owner will contact the town enforcement officer to discuss initiating compliance with WSC regulations. The options for compliance include upgrading or decommissioning a failed septic system, and in the case of refusing inspection, allowing the septic system to be inspected. Decommissioning a system means taking it out of service by capping the discharge sewer line and either removing the system or backfilling it in place.
  4. Legal action as described in no. 2 above will be taken by the town enforcement officer if there is no response from the property owner after 15 days following receipt of the certified Violations and Penalties letter.

## VIII. FEES

A fee which may be charged for each routine Wastewater System Inspection shall be set by the Board of Trustees of the Village of Cooperstown.

PROCEDURES FOR INSPECTIONS AND SURVEYS  
OF ONSITE WASTEWATER TREATMENT SYSTEMS  
OTSEGO LAKE WATERSHED

The following procedures represent the minimum standard for inspections and surveys of onsite wastewater treatment systems (OWTS) in the towns of Middlefield, Otsego, and Springfield, and the Village of Cooperstown that are located within 500 feet of Otsego Lake and 100 feet from a feeder stream to Otsego Lake having a DEC index of waters number. These procedures are applicable to inspections performed both on a periodic basis and at the time of property transfer.

I. NOTIFICATION

The owner or owner's agent is responsible for responding to correspondence sent by the WSC requesting an inspection. The request letter will be sent via Certified Mail to the owner in advance of the inspection. The owner will set up the inspection through the Watershed Coordinator, and will be responsible for having a septage hauler on hand for the inspection.

II. ACCESS AND REQUIREMENTS

The owner or owner's agent is responsible for uncovering septic tanks, holding tanks, and pump stations prior to an inspection. Unless it has been "grandfathered", a septic tank must be greater than 10 feet from a dwelling and 50 feet from a water supply. The edge of a septic field must be greater than 100 feet from a well or from the shore of the lake or a tributary.

III. FLOW TEST

The owner or owner's agent will make provisions for water so that a flow test of the system can be performed. The inspector will perform the flow test before the septic tank is pumped out to assess the flow of wastewater through the tank and into the absorption area. Access must be provided to allow the inspector to assure that all appropriate plumbing fixtures, including bathroom, kitchen, laundry, and wash basin fixtures drain to the wastewater treatment system.

A surface inspection of the leach field or absorption area will be made to determine its apparent function. Drainage pipes or other features found during the inspection may require additional investigation to address any potential surface discharge of sewage or septic system effluent. The inspector may require certain diagnostic testing at the time of the inspection, and sufficient follow up visits performed as a means of investigating suspect conditions.

IV. HIGH WATER FLOW TESTS

Properties which are in use during times of high ground water, e.g., March, April, may be inspected as in paragraph 3, above, separately from a full inspection to determine adequacy of treatment under such conditions. A written notice shall still be sent in advance as specified in paragraph 1 above.

V. PUMP-OUT AND TANK INSPECTION

Pump-out of a septic tank or holding tank is required at the time of a regular periodic inspection, and the tank is to be pumped in the presence of the inspector. If a tank is pumped at a time other than a scheduled inspection, the owner shall keep a record of the pump-out for future reference. In the case of a property transfer, an inspection and pump-out is required per Section VI of the Management Regulations for Onsite Treatment Systems.

Tanks must be found to be water tight, free of cracks, corrosion, or other structural defects. Tops, lids, or covers must also be in a satisfactory condition. Baffles must be in place and securely fastened. If a tank is found to be in unsatisfactory condition, the replacement tank shall meet the standard for size established in Appendix 75-A of the NYS Public Health Law, or a subsequent update or replacement document.

VI. PUMP STATIONS

Pump stations shall be inspected where applicable. Pump tanks shall meet the same standards concerning integrity and suitability as other tanks, and will be sized based on the most current version of Appendix 75A. Adequate function of the pump tank shall be demonstrated at the time of inspection including the presence and function of a high-level alarm.

VII. ENHANCED TREATMENT UNITS (ETU'S)

A. According to NYS Department of Health Appendix 75A, ETU's are "pre-manufactured structures that provide enhanced treatment prior to discharge to a subsurface soil absorption area". These units must meet National Sanitation Foundation (NSF) Class I Standard 40 requirements, or have equivalent independent testing to be allowed for use in Zone of Protection for Otsego Lake. For both new and replacement systems, ETU's are considered an alternative to a conventional septic tank, and must be used in conjunction with a properly sited and designed filtration and/or soil absorption area approved by the WSC. ETU's and their corresponding absorption areas must be designed in accordance with the most current version of Appendix 75A. Types of ETU's include Aerobic Treatment Units (ATU's) and media filters such as textile, foam, peat, and sand.

B. A visual and audio warning device shall be installed in a conspicuous location so that activation of such warning device will alert property occupants of ETU malfunction or failure. All warning devices shall be wired separately from the ETU so that disconnecting the ETU from electricity will activate the warning device.

## WSC Inspection Procedures

C.. All ETU's must have a continuous maintenance contract agreement with an authorized service contractor. An authorized service contractor shall inspect each ETU at least one time per year. All service contracts must be sent to the WSC annually to verify that a continuous contract exists for the ETU .

### VIII. HOLDING TANKS

A. All existing holding tanks shall be inspected by the Manager on an annual basis at the time of pumping. Homeowners shall give the Manager 48 hours notice prior to the inspection date.

B. Holding tanks are allowed for replacement systems only, and must be approved by the WSC. (See Section V, Part 5, Management Regulations for Onsite Treatment Systems, for specific requirements regarding the approval of holding tanks as a replacement system.)

C. Newly installed holding tanks shall: (1) be accessible to a septage hauling/pumping vehicle; (2) have an access port above grade not to exceed 8" in diameter; (3) have a *minimum* capacity of four days storage based on a design flow of 150 gallons/bedroom/day; (4) have an audio or visual float alarm for high level; (5) have provision for high-level shut-off; and (6) have anchoring devices for areas where seasonal high ground water levels are evident from soil investigations.

D. All existing holding tanks shall be equipped with an acceptable alarm device to alert the property owner that the tank is filled within 12 inches of the inlet pipe.

E. Holding tanks shall be pumped by a NYS DEC permitted septic tank pumping contractor when the tank is at a minimum of 12" of the inlet pipe, and documentation shall be sent to the Manager.

### IX. REPORTS AND CERTIFICATION

The Systems Inspector will submit an Inspection Findings Worksheet to the Watershed Coordinator within five (5) days of the inspection. The Watershed Coordinator and/or the Systems Inspector will review inspection findings with the WSC at regularly scheduled meetings. Based on the findings, the WSC will decide whether the system passes or fails the inspection, and will notify the property owner.

Systems that pass the inspection, based on the criteria defined in Section X., will be issued a Certificate of Compliance. The WSC will issue a written Notice of Violation when the system does not meet the acceptance criteria and is determined to be in failure. The Notice of Violation will include instructions on corrective action and date, not to exceed one year, by which such action must be undertaken. Any repair or modification will require a Construction Permit issued by the Codes Enforcement Officer.

## WSC Inspection Procedures

### X. Inspection Acceptance Criteria

- A. All tanks (septic tank, holding tank, pump tank) must be structurally sound, including baffles and covers, and water tight.
- B. There can be no wastewater breakout on the surface.
- C. All wastewater lines must be directed to the septic tank or holding tank. There can be no separate grey water line(s).
- D. All alarm systems and pumps must be in proper working order.

(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. \_\_\_\_\_ 29 \_\_\_\_\_ of 2011, of the ~~(County)~~(City)(Town)(Village) of \_\_\_\_\_ Cooperstown \_\_\_\_\_ was duly passed by the Board of Trustees \_\_\_\_\_ on Oct. 24 2011, 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.)**

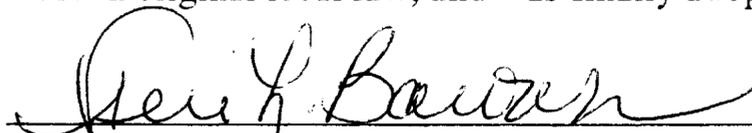
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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

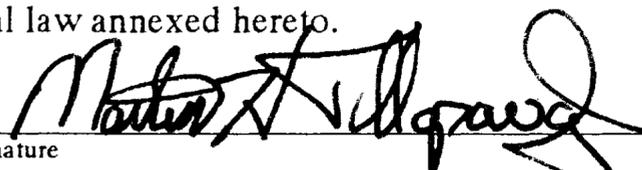
(Seal)

Date: October 28, 2011

**(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 OTSEGO

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

Village Attorney  
Title

~~County~~  
~~City~~ of Cooperstown  
~~Town~~  
Village

Date: October 28, 2011