

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County City Town Village
(Select one.)

of Briarcliff Manor

Local Law No. 2 of the year 2015

A local law TO AMEND CHAPTER 131 OF THE CODE OF BRIARCLIFF MANOR ON THE
(Insert Title)
REGULATION OF FRESHWATER WETLANDS

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

County City Town Village
(Select one.)

of Briarcliff Manor as follows:

SEE ATTACHED

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

(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. 2 of 2015 of the (County)(City)(Town)(Village) of Briarcliff Manor was duly passed by the Board of Trustees (Name of Legislative Body) on JANUARY 21 2015, in accordance with the applicable provisions of law.

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) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 , in accordance with the applicable provisions of law.

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) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

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.

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) (Name of Legislative Body) (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.

* 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.)

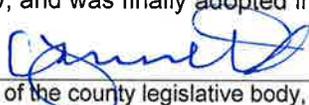
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1 above.



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

Date: 1-22-15

(Seal)

LOCAL LAW TO AMEND
CHAPTER 131 OF THE CODE OF
THE VILLAGE OF BRIARCLIFF
MANOR ON THE REGULATION
OF FRESHWATER WETLANDS

Be it enacted by the Board of Trustees of the Village of Briarcliff Manor as follows:

1. Chapter 131 of the Code of the Village of Briarcliff Manor, entitled "Freshwater Wetlands" is hereby amended by deleting it in its entirety and replacing it with the following:

"§ 131-1. Short title.

This chapter shall be known as the "Freshwater Wetlands Protection Law of the Village of Briarcliff Manor."

§ 131-2. Declaration of policy.

It is declared to be the public policy of Village of Briarcliff Manor to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the Village. It is further declared to be the policy of the Village of Briarcliff Manor to exercise its authority pursuant to Article 24 of the State Environmental Conservation Law as such law may from time to time be amended.

§ 131-3. Statement of findings.

- A. The freshwater wetlands located in the Village of Briarcliff Manor are invaluable resources for flood protection, wildlife habitat, open space and water resources.
- B. Freshwater wetlands in the Village has been lost, despoiled or impaired by draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Remaining freshwater should be regulated to preserve their value to the Village.
- C. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosystems.
- D. Freshwater wetlands conservation is a matter of Village concern.
- E. Any loss of freshwater wetlands deprives the people of the Village of Briarcliff Manor of the many and multiple benefits to be derived from wetlands, to wit:
 - (1) Flood and storm control by the hydrologic absorption and storage capacity of freshwater wetlands;

- (2) Wildlife habitat by providing breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl rare species;
- (3) Protection of subsurface water resources and provision for valuable watersheds and recharging ground water supplies;
- (4) Recreation by providing areas for, fishing, boating, hiking, bird watching, photography, camping and other uses;
- (5) Pollution treatment by serving as biological and chemical oxidation basins;
- (6) Erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors;
- (7) Education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and training and education resources;
- (8) Open space and aesthetic appreciation; and
- (9) Sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.

§ 131-4. Definitions.

The following terms, phrases, words and their derivatives shall have the meaning given herein:

ADJACENT AREA

Any land in the Village of Briarcliff Manor immediately adjacent to a freshwater wetland lying within 100 feet measured horizontally from the boundary of a freshwater wetland.

APPLICANT

Any person or authorized agent who files an application for any permit issued pursuant to this chapter, and includes the agent of the owner or a contract vendee.

BOARD

The Freshwater Wetlands Appeals Board established by Article 24 of the State Environmental Conservation Law.

BOUNDARIES OF A FRESHWATER WETLAND

The outer limit of the vegetation specified in Subsections A and B of the definition of "freshwater wetlands."

CONSERVATION ADVISORY COUNCIL

The Conservation Advisory Council of the Village of Briarcliff Manor.

FRESHWATER WETLANDS

- A. Any lands and waters lying within the boundaries of the Village of Briarcliff Manor including any natural water body or watercourse such as a pond, reservoir, lake, stream or brook containing any or all of the following criteria, together with any lands and

waters as shown on the Freshwater Wetlands Map and also containing any or all of the following criteria:

- (1) Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semiaquatic vegetation of the following vegetative types:
 - (a) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees; including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*) swamp white oak (*Quercus bicolor*), red ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*), and larch (*Larix laricina*);
 - (b) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs; including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), and leatherleaf (*Chamaedaphne calyculata*);
 - (c) Emergent vegetation, including, among others, cattails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow-arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Phragmites communis*), wildrice (*Zizania aquatica*), bur-reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago-aquatica*);
 - (d) Rooted, floating-leaved vegetation; including, among others, water-lily (*Nymphaea odorata*), watershield (*Brasenia Schreberi*), and spatterdock (*Nuphar* spp.);
 - (e) Free-floating vegetation; including, among others, duckweed (*Lemna* spp.), big duckweed (*Spirodela polyrhiza*), and watermeal (*Wolffia* spp.);
 - (f) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation; including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arundinacea*), swamp loosestrife (*Decodon verticillatus*), and spikerush (*Eleocharis* spp.);

- (g) Bog mat vegetation; including among others, sphagnum mosses (Sphagnum spp.), bog rosemary (Andromeda glaucophylla), leatherleaf (Chamaedaphne calyculata), pitcher plant (Sarracenia purpurea), and cranberries (Vaccinium macrocarpon and V. oxycoccos);
- (h) Submergent vegetation; including, among others, pondweeds (Potamogeton spp.), naiads (Najas spp.), bladderworts (Utricularia spp.), wild celery (Vallisneria americana), coontail (Ceratophyllum demersum), water milfoils (Myriophyllum spp.), muskgrass (Chara spp.), stonewort (Nitella spp.), waterweeds (Elodea spp.), and water smartweed (Polygonum amphibium);

B. "Manmade or created freshwater wetlands" with a surface area less than four thousand square feet (4,000 sf) at overflow level are exempt from the provisions of this chapter with the exception of freshwater wetlands created as compensation or mitigation as a result of disturbance to an existing wetland or adjacent area.

FRESHWATER WETLANDS MAP

A map on which are indicated the boundaries of any freshwater wetland and which has been filed with the Clerk of the Village of Briarcliff Manor by the State Department of Environmental Conservation pursuant to § 24-0301 of the State Environmental Conservation Law as such law may from time to time be amended.

LOCAL GOVERNMENT

A city, county, town or village.

MANMADE OR CREATED FRESHWATER WETLANDS

Aquatic areas for which no existing permit or approval is on file with the Village, or which are not shown on an approved site plan or subdivision plat or on a survey or map 20 years old or less and having one or more of the following characteristics:

- A. Artificially irrigated areas that would revert to upland should irrigation cease;
- B. Artificial lakes or ponds created by excavating and/or diking dry land;
- C. Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
- D. Ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
- E. Water-filled depressions created incidental to construction activity and;
- F. Groundwater drained through subsurface drainage systems and Erosional features (gullies and rills), and swales and ditches that are not tributaries or wetlands.

PARTY IN INTEREST

The applicant, the Planning Board, the State Department of Environmental Conservation, each local government in which the regulated activity or any part thereof is located, and any person who appears and wishes to be a party in interest at the public hearing held pursuant to § 131-7 of this chapter.

PERSON

Any corporation, firm, partnership, association, trust, estate, one or more individuals, and any unit of government or agency or subdivision thereof.

PLANNING BOARD

The Planning Board of the Village of Briarcliff Manor.

POLLUTION

The presence in the environment of human-induced conditions or contaminants in quantities or characteristics which are or may be injurious to humans, plants, animals or property.

PROJECT

Any action which may result in direct or indirect physical impact on a freshwater wetland, including but not limited to, any regulated activity.

REGULATED ACTIVITY

Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate from any freshwater wetland including adjacent area, either directly or indirectly; any form of dumping, filling, or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind either directly or indirectly; erecting any structures or roads, the driving of pilings, or placing of any other obstructions whether or not changing the ebb and flow of the water; any form of pollution, including but not limited to, installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes directly into or so as to drain into a freshwater wetland; that portion of any subdivision of land that involves any land in any freshwater wetland or adjacent area; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 131-3 of this chapter.

SELECTIVE CUTTING

The annual or periodic removal of trees, individually or in small groups, in order to realize the yield and establish a new crop and to improve the forest, which removal does not involve the total elimination of one or more particular species of trees.

STATE

The State of New York.

STATE AGENCY

Any state department, bureau, commission, board or other agency, public authority or public benefit corporation.

STORM WATER MANAGEMENT

Retention or detention areas/ponds constructed as part of an overall plan to control runoff and erosion control and retain stormwater that are not designed as a wetlands. These are exempt from Freshwater Wetlands Regulation and shall be regulated under Village Code Chapter 184-Stormwater Management.

VILLAGE

The Village of Briarcliff Manor, New York.

VILLAGE ENGINEER

The Village Engineer of the Village of Briarcliff Manor.

§ 131-5. Prohibited activities.

Except as provided in § 131-6 of this chapter, the following activities shall be prohibited and unlawful to construct or permit to be constructed any building or structure of any kind in or upon a wetland or an adjacent area within fifty feet (50') measured from the boundary of a freshwater wetland.

§ 131-6. Permitted activities.

- A. Activities permitted by right. The following regulated activities are permitted, by right, in or upon a freshwater wetland or an adjacent area thereto, except where the Planning Board submits written notification to the property owner that it is assuming jurisdiction over the activity for the purpose of assuring that the intent of this chapter is not violated:
- (1) Outdoor recreation, including play and sporting areas; field trails for nature study, hiking or horseback riding; and swimming, skin diving, boating, trapping, or fishing where otherwise legally permitted.
 - (2) Maintenance of lawns, grazing, farming, gardening and harvesting of crops where otherwise legally permitted, except for use of chemicals as provided for in § 131-6B(1)(e).
 - (3) The activities of farmers and other land owners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of wetlands or adjacent areas, selective cutting of timber, draining land or wetlands for growing agricultural products. Each farmer or other landowner who intends to conduct an otherwise regulated activity under this exemption shall notify the Planning Board prior to the activity of his or her intention to engage in such activity stating the methods to be used and the uses to be made of the land. Such notice shall also include the approximate acreage to be affected, the type and location of the activity. Provided, however, that the filing of a soil and water conservation plan prepared by a Soil and Water Conservation District shall satisfy this notification requirement.
 - (4) Operation and maintenance of such dams, retaining walls, terraces, sluices, culverts or other water control structures or devices as were in existence on the effective date of this chapter, or are hereafter approved pursuant to the procedures provided for in this chapter.
 - (5) Incidental removal of brush and trees which would result in no appreciable affect upon the runoff or drainage into any river, wetland, water body or watercourse.

- (6) Public health activities, orders and regulations of the (State Department of Health, County Department of Health, City Department of Health or other, as applicable) undertaken in compliance with § 24-0701, Subdivision 5, of the State Environmental Conservation Law.
- (7) Activities subject to the review jurisdiction of the State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under Article VII or Article VIII of the State Public Service Law, respectively. The standards and restrictions of this chapter will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.
- (8) The deposition or removal of the natural products of freshwater wetlands and adjacent areas by recreational or commercial fishing, shellfishing, agriculture, or trapping, where otherwise legally permitted and regulated.
- (9) To construct or permit to be constructed any building, structure or regulated activity without a permit within an adjacent area fifty feet (50') to one hundred feet (100') from the boundary of a freshwater wetlands.
- (10) Restoring land elevations that have been altered by erosion or storm damage.

B. Activities requiring Engineer approval.

- (1) The following regulated activities are permitted in or upon a freshwater wetlands or an adjacent area only if conducted after application to and pursuant to terms and conditions approved and permit issued by the Village Engineer, except that Village Engineer approval shall not be required where the activity is conducted pursuant to terms and conditions of an application approved by the Planning Board.
 - (a) Removing water-deposited silt, sand or other to restore the preexisting land elevations, provided the total quantity removed does not exceed 25 cubic yards of material.
 - (b) The construction, expansion or improvement of private recreation facilities, as otherwise legally permitted, provided the amount of material deposited, removed or re-graded does not exceed fifty cubic yards (50cy).
 - (c) The construction of driveways where alternative means of access are proven to be impractical provided the amount of material to be

deposited or re-graded in connection with such construction does not exceed 100 cubic yards and there is no restriction of flood flows unless access location has been established as part of a Planning Board application.

(d) The use of chemicals, dyes, fertilizers, herbicides or other similar materials provided that approval shall be given only after consultation with or pursuant to the guidelines of the NYSDEC.

(e) Any activity requiring Planning Board approval by the terms of this chapter which the Planning Board refers to the Village Engineer for disposition.

(2) No well, regardless of its proximity to a freshwater wetland shall be drilled without receiving the approval of the Village Engineer as to its location.

C. Activities requiring Planning Board Approval.

(1) The following regulated activities are permitted in or upon a freshwater wetland or an adjacent area only after application to, approval by and subject to the terms and conditions and mitigation specified by the Planning Board as a part of a subdivision application, a site development plan application, or an application for permit submitted pursuant to the procedure set forth in § 131-6 of this chapter. Such Planning Board approval, terms and conditions are to be given and imposed so as to enhance or cause the least possible damage, encroachment or interference with the natural resources or functions of the freshwater wetlands and consistent with the purposes of this chapter.

(a) Any activity listed in § 131-6B but involving a scale of operation beyond that which is approvable by the Village Engineer.

(b) Any activity normally permitted by right or normally requiring Village Engineer approval as set forth in § 131-6A and B where the Planning Board notifies the property owner in writing of the Board's intent to assume jurisdiction in furtherance of the purposes of this chapter.

(c) The construction of roads, where alternative means of access are proven to be impractical, provided they do not impede flood flows.

(d) The construction of municipal or utility uses as water supply facilities, park and recreation facilities, sewage treatment facilities or other installations which involve any alteration of existing natural conditions.

(e) Construction of utility lines.

- (2) Regardless of the proximity of the land involved to any freshwater wetlands, all proposed destruction of trees and other plant life other than that referred to in § 131-6A(3) and (5) shall be subject to review and approval by the Planning Board to prevent substantial alteration of runoff conditions.
- (3) The construction of any building(s) or structure(s) within an adjacent area that is beyond the first 50 feet as measured from the boundary of a freshwater wetland.

§ 131-7. Permits.

- A. Applications. Applications for permits to conduct any regulated activities under § 131-6B or C shall be submitted in duplicate to the Village Engineer for approval or for referral to the Planning Board and shall include the following information:
 - (1) Name and address of applicant or applicant's agent, if any, and whether applicant is owner, lessee, licensee, etc. If applicant is not owner of record, the written consent of the owner must be attached.
 - (2) Statement of the specific purpose, nature and scope of the activity proposed.
 - (3) Any topographical and perimeter surveys, hydrological computations, engineering studies and other factual or scientific data and reports as deemed reasonably necessary by the approving authority (Planning Board or Village Engineer) to permit it to arrive at a proper determination.
 - (4) Applications affecting water retention capability, water flow or other drainage characteristics of any wetland, water body or watercourse shall include a statement of the area of upstream and downstream watersheds, impact analysis and information as to rainfall intensity in the vicinity for not less than ten-year return frequency, together with approximate runoff coefficients to determine the capacity and size of any channel sections, pipes or waterway openings together with plans for necessary bridges, culverts, stormwater or pipe drains that, in the opinion of the approving authority, are needed to arrive at a proper determination on the application, consistent with the purposes of this chapter.
 - (5) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 184, Article I, Stormwater Management and Erosion and Sediment Control, shall be required for any wetlands permit approval that qualifies as or authorizes a land development activity as defined in Chapter 184, Article I. The SWPPP shall meet the performance and design criteria and standards in Chapter 184, Article I. The approved wetlands permit shall be consistent with the provisions of Chapter 184, Article I.
- B. Referral to Conservation Advisory Council. The Planning Board or Village Engineer may refer any application submitted pursuant to this chapter to the Conservation Advisory Council for review and report. The Conservation Advisory Council shall report back to the Planning Board or to the Village Engineer as the case may be, within 30 days of the date of referral or within such other period as may be specified by the Planning Board at the time of referral. Failure to reply within the specified time period may be

interpreted by the Planning Board (or Village Engineer) as indicating no objection to the application.

C. Public hearings and time periods.

(1) The time period for consideration of, and requirements for public hearings to be conducted in connection with, any application for permission to carry on any regulated activity under § 131-6B and C of this chapter which is made in conjunction with a subdivision application or site development plan application shall be the same as the time period for consideration of, and requirements for public hearing of the subdivision, or site development plan application with which it is associated, provided that such public hearing shall be held no later than 60 days after the Planning Board meeting at which a completed application is received by the Planning Board.

(2) The Planning Board shall advertise and conduct a public hearing on any application for approval of a regulated activity submitted pursuant to this chapter which is not associated with a subdivision or site development plan application. Within 60 days of the date of the Planning Board meeting at which a completed application made pursuant to § 131-7A is received by the Planning Board, or within 45 days of the date of any public hearing which may be conducted on said application, whichever period is shorter, the Planning Board shall render a decision to approve, approve with modifications, or disapprove the issuance of a permit for the proposed activity.

D. Conditions and time limit. In approving any application submitted pursuant to the requirements of this chapter the approving authority may impose such conditions on the proposed activity as it determines necessary to ensure compliance with the intent of this chapter. The approving authority may fix a reasonable time within which any operations must be completed and may also require the filing with the Village Board of cash or surety company performance bond in such amount and form as determined necessary by the approving authority to ensure compliance with the approved permit. Any decision to grant, deny, place conditions upon, require a bond for, revoke or suspend any permit must be supported by written findings and reasons.

E. Disposition by Village Engineer. The Planning Board, at its discretion, may waive its power of review and approval in cases where the Board determines that the proposed nature or scope of activity is such that the application should be handled administratively by the Village Engineer. In such cases, the Board shall direct the Village Engineer to decide the matter in accordance with the normal administrative procedures for applications submitted pursuant to the requirements of § 131-6B of this chapter.

§ 131-8. Planning Board Authority.

A. The Planning Board is hereby authorized to vary the strict application of the provisions of § 131-6 and to review, upon request of the applicant, the determinations made by the Village Engineer under § 131-6B, where the Planning Board finds there are special circumstances or conditions applying to the land or activity for which approval is sought or the circumstances or conditions are such that strict application of the provisions of this chapter could reasonably be waived or varied and still maintain the purpose of this chapter, or would create a hardship; provided, however, that any such approval which is

not in strict compliance with the provisions of this chapter, shall be the minimum variance from the chapter that will accomplish the object of the activity involved and shall be in harmony with the general purpose and intent of this chapter as set forth in §§ 131-1 and 131-2 and any land use regulations as may be applicable pursuant to § 24-0903 of the State Environmental Conservation Law.

- B. A duly filed notice in writing to the Planning Board that the State of New York or any agency or subdivision thereof is in the process of acquiring any affected freshwater wetland by condemnation or negotiation shall be sufficient basis for denying a permit for an activity proposed to be located on such wetland or adjacent area thereto.
- C. The Planning Board, , may with the approval of the Board of Trustees, issue such guidelines as it deems appropriate for the use of the Village Engineer and the Planning Board in carrying out their responsibilities under § 131-6B and C of this chapter.

§ 131-9. RESERVED.

§ 131-10. RESERVED. (This entire section is deleted from Section 131. Section 127-Flood Damage Protection of the Village Code covers this item).

§ 131-11. Fees.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). After a permit shall have been granted by the Planning Board or the Village Engineer, as the case may be, and as a condition for the issuance thereof, the applicant shall pay a fee as shall be set forth by resolution of the Village Board of Trustees in the Master Fee Schedule, which may be amended, to said Board. No fee shall be required for permits issued by the Village Engineer in accordance with the requirements of this chapter.

§ 131-12. Suspension or revocation of permits.

- A. The Planning Board or Village Engineer may suspend or revoke a permit issued pursuant to this chapter where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in the application.
- B. The Planning Board or Village Engineer shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for revoking or suspending a permit pursuant to this section.

§ 131-13. Penalties for offenses.

- A. Any person who undertakes any regulated activity within a wetlands or wetlands buffer without a permit or who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed \$3,000 for every such violation. Each consecutive day of the violation will be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice and with rights to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village, and any action commenced to recover the same may be settled and discontinued by the Village.

- B. The Planning Board shall also have the power, following a hearing, to direct a violator to cease violation of this chapter and, under the Board's supervision, to restore satisfactorily the affected freshwater wetlands or watercourse to its condition prior to the violation, insofar as that is possible, within a reasonable time. Exercising of such power may be with or without the imposition of a fine or civil penalty under Subsections A and D hereof.
- C. Any civil penalty or order issued by the Planning Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules within 30 days of the filing of the decision in the office of the Village Clerk of the Village of Briarcliff Manor.
- D. In addition to the above civil penalty, any person who violates any provision of this chapter shall be guilty of a violation punishable by a fine of not less than \$500 nor more than \$1,000. For a second and each subsequent offense, the violator shall be guilty of a violation punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition to these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetlands to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Wetlands Inspector.
- E. The Village shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter and to compel the restoration of the affected wetlands or wetlands buffer to its condition prior to the violation of the provisions of this chapter.
- F. The Village Engineer and Building Inspectors are hereby authorized to issue appearance tickets and summonses for violations of this chapter.

§ 131-16. Repealer.

Local Law No. 1-1973, enacted February 8, 1973, is hereby repealed.”

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

3. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York within the provisions of the Municipal Home Rule Law.