

DRAFT
TABLE OF CONTENTS

I	Title	1.
II	Purpose	1.
III	Findings and Benefits	1.
IV	Legislative Intent	3.
V	Identification of Wetlands and Buffers	4.
	A. Available Maps	4.
	B. Boundary Determination	4.
	C. Buffer Zones	6.
VI	Regulated Activity	6.
VII	Prohibited Activities	8.
VIII	Excluded Activities	8.
IX	Permit Application	9.
	A. Filing an Application	9.
	1. Required Information	9.
	2. Request for Additional Information	10.
	a. List of property owners	10.
	b. Plans/specifications	10.
	c. Impacts upstream and downstream	11.
	d. Miscellaneous information	12.
	e. Burden of proof	12.
	3. Fees for Technical Review	12.
	4. Professional preparation/certification of applications	12.
	5. Application fee	12.
	6. Submission of four (4) copies	12.
	7. Information on other required permits	12.
	B. Completeness of Application	13.
	C. Waivers	13.
	D. Withdrawal/refund conditions for applications	13.
	E. Public Notice	13.
	F. Regulated wetland within two (2) or more jurisdictions	13.
X	Administration of Permit Application	14.
	A. Distribution of Application	14.
	B. Time frame for review by the Conservation Advisory Council	14.
	C. Public Hearing	14.
	D. Time limit for permit decisions	14.
	E. Extension of time	14.

DRAFT

- F. Inactive applications 14.

- XI Standards for Permit Decisions 15.
 - A. Factors to consider in permit decisions 15.
 - B. General Standards for approval 16.
 - C. Acquisition by the state or an agency or subdivision thereof 16.
 - D. Mitigation plan 16.
 - E. Conditions for a permit 17.
 - 1. General conditions 17.
 - 2. Special conditions 17.
 - 3. Permit renewal 18.
 - 4. Bonding requirements 18.
 - 5. Findings 19.

- XII Mitigation Policy: Plan requirements 19.
 - A. General Requirements 19.
 - B. Baseline data 19.
 - 1. Hydrologic data 19.
 - 2. Soils 20.
 - 3. Vegetation 20.
 - 4. Monitoring 20.
 - 5. Relationship to wetland permit 21.

- XIII Other Laws and Regulations 21.
 - A. Applicability 21.
 - B. Relationship to Other Laws 21.

- XIV Functions of Permitting Authority, Advisors and Inspector 21.
 - A. Town Clerk/Permit Issuer 21.
 - B. Approval Authority 21.
 - C. Environmental Review Authority 22.
 - D. Wetlands Inspector 22.

- XV Enforcement 22.
 - A. Inspection 22.
 - B. Stop Work Order 22.
 - C. Suspension or Revocation of Permits 23.
 - D. Corrective Action 23.
 - E. Cease and Desist Order 24.
 - F. Civil Sanctions 24.
 - G. Criminal Sanctions 24.
 - 1. First Infraction 24.
 - 2. Second Infraction 25.
 - 1. Injunctions and Orders 25.
 - 2. Equitable Relief 25.
 - 5. Bond Requirement 25.
 - 6. Appeals 26.

DRAFT

XVI	Severability	26.
XVII	Amendments	26.
XVIII	Assessment Relief	26.
XIX	Definitions	26.

DRAFT

I TITLE

This local law shall be known as the Freshwater Wetland Waterbody and Watercourse Protection local law of the Town of Beekman.

II PURPOSE

The purpose of this local law is to protect the ecological system of wetlands, waterbodies and watercourses within the Town of Beekman by implementing a system of regulations to control certain activities and by establishing buffer zones adjacent to these wetlands, waterbodies and watercourses. This includes but is not limited to such activities as the dredging, filling, depositing or removing of material, including vegetation; the diversion or obstruction of water flow, the placement of structures in; or other uses of wetlands, waterbodies, and watercourses that may adversely affect the natural, economic, social, agricultural and aesthetic benefits derived from these aquatic resources.

This local law also establishes the requirement of permits, which provide the necessary control and protection of the Town's wetlands, waterbodies and watercourses.

III FINDINGS AND BENEFITS

- A. The Town Board of the Town of Beekman has determined that wetlands, waterbodies, and watercourses are invaluable resources. In their natural state wetlands serve a myriad of valuable ecological functions important to public welfare and the economic vitality of the region. These functions include, but are not limited to the following:
1. Providing a common linkage between aquatic systems (aquifers floodplains, wetlands, lakes, rivers, etc.);
 2. Protecting the groundwater recharge systems by preventing the diversion of groundwater or subsurface water from the watershed;
 3. Protecting water quality by functioning as chemical and biological oxidation basins and nutrient traps for nitrogen and phosphorus and as filters for surface water pollutants;
 4. Controlling flood and stormwater runoff by storing or regulating natural flows;
 5. Controlling erosion and water turbidity by serving as sedimentation areas and filter basins, absorbing silt and organic matter;
 6. Supporting unique wetland plants specifically adapted for survival in low oxygen environments;
 7. Providing areas of unusually high plant productivity;

DRAFT

8. Providing a critical living, breeding, nesting and feeding environment for many forms of wildlife, including, but not limited to mammals, wildfowl, migratory birds, shorebirds, reptiles, amphibians, rare species, especially endangered and threatened species, and other dependent plants and animals;
 9. Providing breeding and spawning grounds, nursery habitat and food for various species of fish;
 10. Providing open space and visual relief from residential and commercial development and sustaining aesthetic conditions and property values;
 11. Providing areas for recreational uses including, but not limited to, hunting, fishing, boating, hiking, bird watching, photography and camping;
 12. Serving as outdoor laboratories and living classrooms for the study and appreciation of natural history, ecology and biology.
- B. The Town Board of the Town of Beekman has determined that buffer zones provide benefits that are important in maintaining a wetland's functional integrity and furnish protection against the impacts to the wetland from activities in adjacent upland areas. Likewise, buffers are important for protecting and maintaining the integrity and quality of waterbodies and watercourses.
- C. The Town Board of the Town of Beekman has determined that growth and development have placed increasing demands upon natural resources that may result, and in certain instances have resulted, in the encroachment, despoliation, pollution and/or elimination of wetlands, waterbodies, and watercourses and their buffer zones.
- D. The Town Board of the Town of Beekman has determined that water withdrawals (wells and surface water intakes) and sewage collection systems may alter the hydrology of ground and surface waters, which may lead to loss of wetland areas.
- E. The Town Board of the Town of Beekman has determined that loss of wetlands or activities along wetlands, waterbodies, or watercourses and their buffers can cause or aggravate flooding, erosion, sedimentation, diminution of water supply and water quality for drinking and waste treatment, and may pose a threat to the health, safety and welfare of the people of the Town of Beekman and the surrounding region.

DRAFT

IV LEGISLATIVE INTENT

- A. It is the intent of the Town of Beekman to control and regulate those activities, as defined herein, which may impact wetlands, waterbodies and watercourses and their associated buffers within the Town thus insuring that the benefits found to be provided by them will not be lost or impaired.
- B. It is the intent of this local law to allow reasonable use of land consistent with responsible land management, and to conserve and protect wetlands, waterbodies, and watercourses and their buffer zones to the extent reasonably practicable consistent with this objective.
- C. It is the intent of this local law to incorporate wetland, waterbody, and watercourse protection into the Town's land use development regulations and approval procedures.
- D. It is the intent of this local law to be consistent with the legitimate interests of landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of wetlands, selectively cut timber and fuel wood and otherwise engage in the use of land for agricultural production.
- E. It is the intent of this local law that consideration should be given to the functional significance of a wetland involved in any particular application or proceeding. Wetlands vary in their importance and value. The decisions made pertaining to the permitted activity under this local law should consider and reflect the relative significance or importance of any particular wetland and the potential impact of a proposed project on those values and functions. It is intended that the standards herein set forth in Section III "Findings and Benefits" of this local law and Section 24-0103 of the NYS Environmental Conservation local law should be used in making these decisions.
- F. The Town of Beekman shall adopt and maintain an official wetland, waterbody, and watercourse map to be used to identify and delineate all wetlands, waterbodies, and watercourses, as defined herein, located within the Town's boundaries. The Town Engineer and Conservation Advisory Council shall update this map as permits required herein are processed and wetlands, waterbodies, and watercourses are delineated. This map shall be used for reference purposes only. Final determination of wetland, waterbody, and watercourse presence and their boundaries shall be determined in the field by qualified personnel. (see Section V.B)
- G. It is the goal of the Town of Beekman to achieve no overall net loss of the Town's remaining wetland resources, including wetland buffer zones. Moreover, it is the long-term goal of the Town to increase the quality and restore the Town's wetland resources in terms of type, function, geographic location, setting and size.

DRAFT

- H. It is the intent of this local law to protect wetlands, waterbodies, watercourses and buffer zones, in addition to those protected under state or federal regulations.
- I. This local law is enacted pursuant to Article 24 of the New York State Environmental Conservation local law and any and all applicable local laws, rules, and regulations of the State of New York, and nothing contained herein shall be deemed to conflict with any such local laws, rules or regulations.
- J. It is the intent of this local law that the burden of proof be borne by the applicant for identifying whether their actions do not impact a wetland, waterbody or watercourse or associated buffer zone.

V IDENTIFICATION OF WETLANDS AND BUFFERS

Wetlands of 12.4 acres (5 hectares) or more which are regulated under Article 24 of the New York State Environmental Conservation local law shall be identified according to the methodology set forth in Article 24. Wetlands less than 12.4 acres shall be identified according to the methodology set forth below:

- A. Available Maps – The boundaries of a wetland ordinarily shall be determined by field investigation, flagging and survey by trained personnel. Identification of the general location of wetlands shall be aided by reference to the following maps:
 - 1. Freshwater Wetland Map filed with the Town Clerk by the New York State Department of Environmental Conservation.
 - 2. Soils Map of Dutchess County/Soil Survey Series.
 - 3. The National Wetland Inventory (NWI) maps developed by the US Fish and Wildlife Service.
 - 4. US Geological Survey Maps.
 - 5. Town Wetland Map.

It is understood that wetlands not depicted on any map are not exempt from regulation under the provisions of this local law.

- B. Boundary Determination
 - 1. The boundaries of a wetland ordinarily shall be determined by field investigation, flagging and may require a subsequent survey by a licensed land surveyor. Alternatively, the boundaries can be determined by current technology and accepted procedures,

DRAFT

including but not limited to Geographic Positioning Systems. The Planning Board may consult, and/or may require the applicant to consult with biologists, hydrologists, soil scientists, ecologists, botanists or other experts, at the applicant's expense, necessary to make this determination pursuant to the definition criteria contained in Section XIX and this section.

2. The Planning Board should maintain an approved list of consultants selected in consultation with the Conservation Advisory Council. When required by the Planning Board to employ a consultant, the applicant shall be encouraged to utilize consultants from the reference list or other consultants approved by the Conservation Advisory Council.
3. The wetland boundary shall be delineated by the methodology set forth in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989)*. This methodology employs three parameters: vegetation, soils and hydrology.
 - a. Vegetation – To determine the frequency of vegetation occurrence in wetlands as outlined in the Federal Manual, the most recent edition of the following publications should be used as a reference: *National List of Plant Species That Occur in Wetlands: New York or Northeast (Region 1)* both are published by U.S. Fish and Wildlife Service.
 - b. Soil – For the purposes of this Chapter hydric soils shall be identified as soil types that are poorly drained, very poorly drained, alluvial or floodplain soils, as defined in Section XIX of this local law and by the updated Soil Survey of the US Department of Agriculture Soil Conservation Service and the Dutchess County Soil and Water Conservation District.
 - c. Hydrology – The following indicators of wetland hydrology may be used to confirm that a site with hydrophytic vegetation and hydric soils still exhibits hydrologic conditions typically associated with such vegetation and soils but shall not be used to determine wetland boundaries:
 - (1) Recorded data such as stream gauges, flood predictions, aerial photographs, or other historical data;
 - (2) Visual observation of inundation;
 - (3) Visual observation of soil saturation within the upper 12 inches of soil;
 - (4) Sediment deposits as a result of flooding;
 - (5) Drift lines as a result of flooding;
 - (6) Surface scouring as a result of flooding;
 - (7) Wetland drainage patterns such as meandering.

DRAFT

- C. Buffer Zones – These areas as defined in Section XIX surround a wetland, waterbody or watercourse and shall be delineated as follows:
1. For all wetlands and waterbodies the buffer zone shall extend a minimum of 100 feet from the edge of the wetland boundary.
 2. The buffer area of a watercourse shall include all adjacent surfaces for 100 feet as measured from the top of bank of the watercourse or level of bankfill discharge on each side of the watercourse.
 3. The Planning Board may increase the size of the buffer zone based on the presence of one or more of the features described as follows (or as described in Article 24):
 - a. Slope: The greater the slope of the buffer zone area, the larger the area must be, to adequately slow runoff velocities into the wetland.
 - b. Development Intensity: The less vegetative cover and associated organic debris a buffer zone has, the more area is needed to successfully dissipate the energy of rainfall and runoff.
 - c. Soil Erodability: If the soil of the area adjacent to a wetland bears a high erosion potential, a larger buffer zone is needed to separate the disturbed area from the wetland.
 - d. Wetland Value or Sensitivity: The more valuable a wetland or the more sensitive it is to impacts, the greater the need for a buffer zone large enough to provide adequate protection for endangered species or an endangered habitat type. Consideration will be given to wetlands interconnected by significant habitat as demonstrated in data designated by the Town Board of Beekman.
 - e. Depth to Bedrock: Steep land with shallow soil (less than 1 meter) under high rainfall produces rapid storm flow. Sediment transport with accompanying pollutants can result in the deposition of materials in wetlands, which may have a negative impact on the wetland resource.
 4. The Planning Board may consult with experts in specific scientific fields as necessary to determine if an increase in buffer size is necessary.

VI REGULATED ACTIVITY (Activities for which a permit is required) See also Exclusions (VIII) and Waivers (VIII.C)

- A. Any form of draining, dredging, excavating or removing of soil, mud, sand, gravel or other aggregate from a wetland, watercourse, waterbody or buffer zone.

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- B. Any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind in any wetland, watercourse, waterbody, or buffer zone, either directly or indirectly.
- C. Clear cutting of any trees, or harvesting of any timber for financial profit, within a wetland, watercourse, waterbody, or buffer zone. Any timber harvesting or clear cutting must be managed by a professional registered with the NYSDEC Cooperating & Consulting Forester Program.
- D. Erecting any structure, constructing roads, driving of pilings or placing any other obstructions, whether or not changing the ebb and flow of the water
- E. Depositing or introducing of organic or inorganic chemicals within a wetland, including herbicides, pesticides and fertilizers.
- F. Erecting of any new decorative plantings, walkways, walls and drives or any mowing and pruning within the one-hundred foot (100') buffer zone initiated after the passage of this local law.
- G. Installing septic tanks, running a sewage outfall or discharging sewage treatment effluent or any other wastes directly into or so as to drain into a wetland, watercourse, waterbody or buffer zone.
- H. Any other activity that may impair the natural function(s) of a wetland or watercourse or waterbody or the benefits derived therefrom.
- I. Installing of any pipes, conduits, service lines or wells within a wetland, watercourse, waterbody or buffer zone.
- J. Current Projects. A regulated activity that was approved prior to the effective date of this local law and to which significant economic resources have been committed but which is not in conformity with the provisions of this local law may be continued subject to the following:
 - 1. All such uses or activities shall continue to be governed by the present local laws of the (municipality) in effect at the time of approval.
 - 2. No such activity shall be expanded, changed, enlarged, or altered in such a way as to increase its nonconformity without compliance with this local law.
 - 3. If such activity is discontinued for twelve (12) consecutive months, any resumption of the use or activity shall conform to the provisions of this local law.

DRAFT

4. If any such activity is destroyed by human action, the forces of nature or an act of God, any resumption of the use or activity shall conform to the provision of this local law.
5. Activities or adjuncts thereof that are or become nuisances shall not be entitled to continue.

VII PROHIBITED ACTIVITIES. Activities Expressly Prohibited

- A. Placement or deposit of any chemical waste, hazardous waste, or storage of any materials that could result in the contamination of any wetland, watercourse, waterbody or buffer zone.
- B. Introduction of fluids or other materials, with sufficiently extreme temperatures to cause injurious or other harmful ecological effects in any wetland, waterbody, watercourse or buffer zone.

VIII EXCLUDED ACTIVITIES. Activities excluded from regulation under this local law shall include the following:

- A. The deposition or removal of the natural products of wetland and buffers by recreational or commercial fishing, shell fishing, aquaculture, hunting or trapping where otherwise legally permitted and regulated.
- B. Public health activities under order and regulations of the New York State Department of Health and/or Dutchess County Department of Health or orders and regulations of any duly authorized agent, provided that copies of such orders and regulations have been filed with the Town Clerk of the Town of Beekman and that the Conservation Advisory Council and the Planning Board may request modifications of such orders if they deem it necessary to implement the policy of this local law.
- C. Any actual and ongoing emergency activity which is immediately necessary for protection and preservation of life or property or the protection or preservation of natural resource values. Such emergency activities include, but are not limited to search and rescue operations; preventative or remedial activities related to large scale contamination of streams or other bodies of water; response to floods, hurricane and other storms; fire fighting and public health concerns. Within two (2) days of the initiation of such an emergency involving the undertaking of any activity which otherwise would be treated as a regulated activity under this section, the person chiefly responsible for undertaking such emergency activity shall communicate with the Town Supervisor of the Town of Beekman setting forth the pertinent facts regarding such emergency, including an explanation of life, property or resource values that such activity was designed to protect or preserve, and an estimated time frame that such activities will require.

DRAFT

- D. Ordinary maintenance and repair of functional structures, facilities, or improved areas existing at the time of the adoption of this local law which do not involve expansion or substantial restoration, reconstruction, rehabilitation or modification, including but not limited to bridges, roads, highway, railroad beds, bulkheads, docks, piers, pilings or paved streets.
- E. Operation and maintenance of existing dams and water control devices in lakes, involving the adjustment of water elevations less than 18” of its previous level at the time of the adoption of this local law.
- F. Normal ground maintenance, including mowing, trimming of vegetation, and removal of dead or diseased vegetation around a residence or business existing at the time of the adoption of this local law.
- G. Decorative landscaping and planting, existing at the time of the adoption of this local law.
- H. Agricultural Activity:
 - 1. Farmers and other landowners engaged in the use of a wetland for agricultural activity not included in Section VI and who employ “sound agricultural practices” (a) as outlined in an approved Conservation Plan as filed in the Dutchess County Soil and Water Conservation District Office, (b) as recommended in the US Department of Agriculture, Natural Resource Conservation Service, Engineering Field Manual, Fourth Printing July, 1984 as amended through 1994 or most current version, or (c) in the NYS Department of Agriculture and Markets, Agricultural District local law reference for “acceptable normal agricultural activities,” pursuant to Agricultural District Local law and properties enrolled in an Agricultural District, are exempt from this local law. Agricultural activity does not mean clear cutting of trees, filling or deposition of soil, or mining.

IX PERMIT APPLICATION

- A. Anyone proposing to conduct or causing to be conducted a regulated activity as defined in Section VI “Regulated Activity,” shall file an application; thereby becoming an applicant for a permit with the Town Clerk together with a filing fee established by resolution of the Town Board.
 - 1. All permit applications must include the following information:
 - a. Name/address. The name, address and telephone number of the applicant, and if the applicant is not the owner, the written consent of the owner must be attached.

DRAFT

- b. Tax Map designation. The street address and tax map designation of the property involved.
 - c. A detailed description of the proposed activity including the short form Environmental Assessment Form (EAF) as required under the State Environmental Quality Review Act (SEQRA).
 - d. Natural Heritage. The applicant shall contact the Natural Heritage Program at NYSDEC in Albany, NY, in writing, to ascertain the presence or absence of endangered or threatened species. A copy of the Natural Heritage Program's written reply must be submitted with the application.
 - e. A map of the proposed activity and description of the hydrologic features occurring on the project site, including the following:
 - (1) The presence of any wetlands on the project site, as defined and/or mapped according to any local law, NYS Department of Environmental Conservation, and/or US Army Corps of Engineers.
 - (2) Any soils classified as hydric or having potential hydric indicators by the Natural Resources Conservation Service.
 - (3) The presence of any streams, drainage channels or water courses.
 - (4) The presence of a 100-year floodplain.
 - f. A statement of the anticipated completion date of the project, including any future development proposals for the property.
 - g. Whether alternative locations exist for the proposed activity.
2. Request for additional information. The Planning Board and/or the Conservation Advisory Council may identify and require additional information that may be needed in order to make a determination. Such information may include, but not be limited to, the following:
- a. List of property owners: A list of adjacent and nearby property owners whose rights or interests may or will be affected by the proposed action. Such list shall also include all those property owners within the controlled area and one hundred (100) feet from the perimeter therefrom and those property owners one hundred (100) feet upstream and five hundred (500) feet downstream. Notification of adjacent and nearby property owners shall be by certified mail.
 - b. Plans/specifications: Detailed plans and specifications for the proposed wetlands activity shall include the information listed below. Maps are to be drawn to a scale of not smaller

DRAFT

than one (1) to four hundred (400). 1:400 (traditional tax map scale)

- (1) Location of disturbed area: The location of the construction area proposed to be disturbed and its relation to property lines, existing buildings, and other structures, roads, controlled areas and watercourses within five hundred (500) feet.
 - (2) Topographic details: Existing and proposed contours shall be shown at an interval of two (2) feet in the area of the proposed operation or project and to a distance of fifty (50) feet beyond said operation or project.
 - (3) Ground water table elevations: Showing depth to water table and direction of flow and hydrologic connections with surface water features.
 - (4) Locations of wells/septics: The locations of any wells, the depth, and pumping rate thereof, and of any waste disposal systems within two hundred fifty (250) feet of the proposed operation or project.
 - (5) Drainage system details: The details of any drainage system proposed including silt retention basin, both for the construction process of the system and the final development and maintenance of the system.
 - (6) Construction details/deposition of spoil: Where creation or enlargement of a lake or pond is proposed, details of the construction of any dams, embankments, outlets or other water control devices and of the handling and deposition of the spoil material.
 - (7) Quantity of material: The estimated quantities of material to be deposited or removed.
 - (8) Details of erosion and sediment control: A diagram showing what erosion controls will be installed, and a schedule for their installation and maintenance.
 - (9) List of affected functions: A description of all functions of the wetland, watercourse, waterbody and buffer zone which will be affected positively and negatively by the application.
 - (10) A description of the vegetative cover of the regulated area, including dominant species.
- c. Impacts upstream and downstream: Applications for projects affecting the water-retention capacity, water flow or other drainage characteristics of any pond, lake, reservoir, natural drainage system or wetland shall include a statement and numerical calculations of the impact of the project on

DRAFT

upstream and downstream areas, giving appropriate consideration to other than normal levels of watercourses and amounts of rainfall, specifically the one-hundred-year storm.

- d. Miscellaneous information: Applications shall also contain such other design specifications, engineering studies, hydrogeologic studies or impact considerations as the Planning Board and the Conservation Advisory Council may deem necessary.
 - e. Burden of proof: To meet the applicant's burden of proof, the applicant may submit any other information necessary to demonstrate that the proposed activity is not adverse to the general health, safety or economic and general welfare of the residents of the Town of Beekman nor is it damaging to the Town of Beekman's natural resources.
3. Fees for Technical Review: In the event that an application requires the Town to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the Town. The applicant shall be notified of the expenses and shall deposit said necessary funds prior to the cost being incurred.
 4. Professional preparations/certification of applications: Plans and specifications for all wetlands permit applications requiring Planning Board approval shall be prepared and certified by an engineer licensed by the State of New York, unless this requirement is waived by the Planning Board. If the requirement for certified plans is waived, the plans submitted shall be neat, complete, fully definitive of all details of the proposed operation or project and capable of reproduction.
 5. Application fee: Each application shall be accompanied by an application fee, as set by the Town Board.
 6. Submission of four (4) copies of application: Four (4) completed copies of the application, together with four (4) copies of the specified supporting plans and documentation, including an environmental assessment form, shall be filed with the Town Clerk. Applications under this Section involving subdivision, site development plan or special permit approval by the Planning Board, Zoning Board or Town Board shall be submitted concurrently with the application for such preliminary subdivision approval; site development plan approval or special permit approval.

DRAFT

7. This application shall be accompanied by applications for approvals or permits required by any other town local law or other applicable federal, state or local permits or authorization, including wetlands permits under Articles 15 and 24 of the New York State Environmental Conservation Law.
- B. **Completeness of Application:** An application shall be deemed complete when accompanied by the above required information; when the application fee has been received by the Town, and only when the Applicant has complied fully with the procedures of the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law).
- C. **Waivers**
1. Should the Planning Board determine after review of said application and/or upon recommendation of the Conservation Advisory Council that the environmental impact of an action proposed for a regulated area is insignificant, the Planning Board shall have the power to:
 - a. Waive any information requirements contained in IX.A.1 and IX.A.2.
 - b. Waive the public hearing required in X.C.
 - c. Waive referrals to outside agencies.
 - d. Waive the requirement for a performance bond in XI.E.4.
 - e. Suspend the permitting process for the action and authorize the immediate issuance of the permit.
 2. Where the Planning Board finds that any waivers are appropriate, they shall set forth their decision and reasons therefore in writing and file same with the Wetlands Inspector, the Conservation Advisory Council, the Planning Board, Town Board and the Town Clerk.
- D. **Withdrawal/Refund Conditions for Applications:** An applicant may withdraw their application at any time prior to the Planning Board's final recommendation. An application fee, as outlined in Section IX.A.5, shall not be refunded to an applicant who so withdraws their application, except where the review has not been started by the Planning Board.
- E. **Public Notice:** As determined by the Planning Board, and/or based on recommendations of the Conservation Advisory Council, the applicant shall publish notice of the filing of the application in two newspapers having general circulation in the Town of Beekman. Such notice shall be in a form approved by the Town Clerk.
- F. **Multi Jurisdiction:** Where a regulated wetland, waterbody and/or watercourse lies within two (2) or more jurisdictions;

DRAFT

1. The Town Clerk must provide copies of the application to the other sharing jurisdictions; and
2. The processing of the application by the Planning Board and the Conservation Advisory Council will include consultation with the other entities in order to achieve a mutually satisfactory determination.

X ADMINISTRATION OF PERMIT APPLICATION

- A. Within five days of receipt of an application, the Town Clerk shall route the application to the appropriate Planning Board and the Conservation Advisory Council, and copies will be provided to other agencies upon request.
- B. Within 60 days of compliance with Section IX.B. (Completeness of Application) – the Conservation Advisory Council shall render a decision to the Planning Board recommending approval, denial or approval with conditions of applications for a wetlands permit.
- C. A public hearing shall be held by the Planning Board regarding applications for a wetlands permit unless a waiver is granted as specified in Section IX.C. To the greatest extent practicable, such hearing shall be incorporated with any other public hearing required by the town or environmental conservation laws, including SEQRA and site plan review, in connection with the activity for which approval is sought. If a public hearing is not required by another approval agency, the hearing shall be held no sooner than 30 days and not later than 60 days after receipt of the required information specified in Section IX.A.
- D. Within 60 days of the Planning Board’s receipt of a report by the Conservation Advisory Council or other reviewing agency or within 60 days of a public hearing, the Planning Board shall approve, deny or approve the application with conditions. Permit decisions will be made as detailed in Section XI “Standards for Permit Decisions.” Upon approval and compliance with all conditions, a permit will be issued by the Planning Board.
- E. Extension of time: The applicant and the Planning Board may mutually consent, in writing, to extend the time for a determination on the application. Any such extension of time must be in writing or recorded in the minutes of the Planning Board meeting at which the project was reviewed.
- F. Inactive application: Applications must be diligently pursued by the applicant. Should any application before the Planning Board remain inactive for six (6) months while awaiting receipt of information as requested by the Planning Board, the application shall be considered

DRAFT

abandoned. The declaration of an application as abandoned shall not prevent the submission of a subsequent new application, including fees, which shall be considered without reference to the prior application.

XI STANDARDS FOR PERMIT DECISIONS

- A. In its recommendation to approve, deny or condition any permit, the Conservation Advisory Council and the Planning Board shall consider the effect of the proposed activity with reference to public health and welfare; fishing, flood, hurricane and storm dangers; rare and endangered species, and protection or enhancement of the functions of wetlands and the benefits therefrom, as set forth in Section III of this local law. Due consideration will also be given to the benefit the applicant and/or the public may derive from the completion of the proposed activity. The Planning Board and the Conservation Advisory Council will consider the following factors in their decision:
1. The impact of the proposed activity, and existing and reasonably anticipated similar activities, upon neighboring land uses and wetland functions as set forth in Section III of this local law, including but not limited to the:
 - a. Infilling of a wetland or other modification of natural topographic contours.
 - b. Disturbance or destruction of natural flora and fauna.
 - c. Influx of sediments or other materials causing increased water turbidity and/or substrate aggradation.
 - d. Removal or disturbance of wetland soils.
 - e. Alterations in wetland water supply.
 - f. Interference with wetland water circulation.
 - g. Damaging reduction or increases in wetland nutrients.
 - h. Influx of toxic chemicals and/or heavy metals.
 - i. Damaging thermal changes in the wetland water supply.
 - j. Destruction of natural aesthetic values.
 2. Any existing wetland impacts and the cumulative effect of reasonably anticipated future wetland activities in the wetland subject to the application.
 3. The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, storm barriers, water quality, and shoreline protection.
 4. The safety of the proposed activity from flooding, erosion, hurricane winds, soil limitations or other hazards with possible loss to the applicant and subsequent purchaser of the land.
 5. The adequacy of water supply and waste disposal for the proposed use.

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6. Compliance with Federal, State, County and local comprehensive land use plans, policies and regulations, and in particular, the New York State Guidelines for Urban Erosion and Sediment Control.
 7. Any other consideration which the Planning Board and/or the Conservation Advisory Council deem pertinent.
- B. An application for a permit shall be denied by the Planning Board and/or Conservation Advisory Council unless:
1. The proposed regulated activity is consistent with the policy of this local law to preserve, protect and conserve wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of wetlands and to regulate the development of such wetlands in order to secure the natural benefits of wetlands, consistent with the general welfare and the beneficial economic and social development of the Town of Beekman.
 2. The proposed regulated activity is compatible with public health and welfare.
 3. The proposed regulated activity is reasonable and necessary.
 4. There is no practicable alternative for the proposed regulated activity on a site which is not a wetland or buffer.
 5. The applicant shall have the burden of demonstrating that the proposed regulated activity will be in accord with the standards set forth in this local law.
- C. Duly filed written notice by the State, an Agency or Subdivision thereof to the Planning Board that the State or any such Agency or Subdivision is in the process of acquiring the affected area on which a proposed regulated activity would be located by negotiation or condemnation, shall be sufficient basis for denial of a permit for such regulated activity. Such notice shall be in accordance with 6 NYCRR, Part 665.7(i) and may be provided at any time prior to the Planning Board's decision to issue or deny a permit for the regulated activity.
- D. Mitigation Plan. The Planning Board shall require preparation of a mitigation plan by the applicant pursuant to Section XII when the applicant has demonstrated that either losses or impacts to the wetland or wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable. For the purposes of this local law, wetland impacts are necessary and unavoidable only if all of the following criteria are satisfied:

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1. The proposed activity is compatible with public health, safety, and welfare;
2. There is no feasible on-site alternative to the proposed activity, including reduction in density, change in use, revision of road and lot layout, relocation, elimination or consolidation of proposed structures, and/or related site planning considerations, that could accomplish the applicant's objectives; and
3. There is no feasible alternative to the proposed activity on another site that is not a wetland or wetland buffer.

E. Conditions for a Permit

1. Every permit issued pursuant to this local law shall contain the following general conditions:
 - a. **Right to Inspection:** The Planning Board, the Conservation Advisory Council designee and/or the Wetlands Inspector shall have the right to inspect the project from time to time. (See Section XIV and XV).
 - b. **Notification of Project Initiation:** The permit holder shall notify the Wetland Inspector, in writing, of the date on which project construction is to begin, at least five (5) business days in advance of such date.
 - c. **Display of Permit:** The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.
 - d. **Demarcation of Boundaries and Wetlands:** The boundaries of the project shall be clearly staked or marked. In addition, any wetlands, waterbodies and watercourses contained within boundaries of the project shall also be staked or marked.
 - e. **Permit Expiration:** All permits shall expire on completion of the acts specified and, unless otherwise indicated, shall be valid for a period of one (1) year.
 - f. **Permit Revocation:** Any permit where the issuance of which was based on erroneous or incomplete information, is subject to revocation by the approving authority.
2. Any permit issued pursuant to this local law may be issued with special conditions. Such conditions may be attached as necessary to ensure the preservation and protection of affected wetlands and to assure compliance with the policy and provisions of this local law

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and the provisions of the Planning Board's rules and regulations. Such conditions may include, but shall not be limited to:

- a. Inspections (see section XV) as a prerequisite for continuation of a project;
 - b. Limitations on lot size for any activity;
 - c. Limitation on the total portion of any lot or the portion of the wetland on the lot that may be cleared, graded, filled or otherwise modified;
 - d. Modification of waste disposal and water supply facilities;
 - e. Imposition of operation controls, sureties, and deed restrictions concerning future use and subdivision of lands such as preservation of undeveloped areas in open space use and limitations on vegetation removal;
 - f. Dedication of easements to protect wetlands, waterbodies and watercourses;
 - g. Containment of construction;
 - h. Erosion control measures;
 - i. Setbacks for structures, fill, deposit of spoil and other activities from the wetland;
 - j. Modifications in project design to ensure continued water supply to the wetland and circulation of waters;
 - k. Replanting of wetland, vegetation and construction of new wetland areas to replace damaged or destroyed areas (See Section XII).
3. Permit Renewal: Upon request of the applicant and pursuant to review and recommendation for approval by the Conservation Advisory Council, the Planning Board may renew a permit for a period of one (1) year. The fee for a permit renewal will be set by the Town Board.
 4. Bonding Requirements:

The Planning Board shall determine that prior to commencement of work under any permit issued pursuant to this local law, and as a condition thereof, the applicant should post a bond (cash or other suitable financial assurance) or letter of credit, conditioned upon the faithful compliance with the terms of such permit and for the indemnification of the Town of Beekman for restoration costs

DRAFT

which may result from failure to so comply. Upon recommendation of the Planning Board, the Town Board shall fix the conditions and amount of such bond or letter of credit within its sole discretion. The same shall remain in effect until the Planning Board certifies that the work has been completed in compliance with the terms of the permit and the bond is released by the Town Board, or a substitute bond or letter of credit is provided that is acceptable to the Town Board.

5. If an inspection is required to certify that the work is completed in compliance with the terms of the permit, an inspection fee in the amount of ten percent (10%) of the bond amount will be required of the applicant.
6. Findings: Decisions on permit applications shall be supported by written findings and reasons.

XII MITIGATION POLICY: PLAN REQUIREMENTS

- A. After it has been determined by the Planning Board pursuant to Section XI.D that losses of wetland or wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable, the applicant shall develop a mitigation plan which shall specify mitigation measures that provide for replacement wetlands that recreate as nearly as possible the original wetlands in terms of type, function, geographic location and setting, and that are at least as large as the original wetland and preferably larger. For the purposes of mitigation, losses of wetland buffers will be viewed as losses of wetland. On-site mitigation shall be the preferred approach; off-site mitigation shall be permitted only in cases where an on-site alternative is not possible.
- B. Mitigation plans developed to compensate for the loss of wetlands or wetland buffers shall include the following baseline data:
 1. Hydrologic Data:
 - a. Small Projects (Losses of less than 2 acres): Land use history, surface contours, soils, streamflow data, and groundwater levels and quality;
 - b. Moderate Projects (Losses of 2 –10 acres): Data required for small projects plus microtopography, bedrock geology, surficial geology, streamflow velocity measurements if appropriate, soil pore water storage (organic soils), and direct precipitation measurements;
 - c. Large Projects (Losses greater than 10 acres): Data for small and moderate projects plus water balance analysis (1-year study), groundwater storage, groundwater flow rates, soil pore water level and flow (organic soils).

DRAFT

2. Soils:
 - a. Small Projects: Soil profile descriptions, general soil survey data, bulk density, porosity, hydraulic conductivity, pH, conductivity, cation exchange capacity, redox potential, total phosphorous, total nitrogen, nitrate nitrogen, organic carbon;
 - b. Moderate Projects: Data required for small projects plus fiber content (organic soils), phosphorous retention, pore water analysis (seasonally), alkalinity, exchangeable acidity, seedbank capacity and soil organisms;
 - c. Large Projects: Data required for small and moderate projects plus clay mineralogy, microbial assessment (seasonally), heavy metals content, pesticides residues, gas/toxin analysis (seasonally), peat features, soil temperature regime.

3. Vegetation:
 - a. Small Projects: Area wetland extent and qualitative measurements of percent plant cover, plant species list, vegetation cover type, relative stem density, animal species list, slope, microtopography, plant vigor, surface water connections, habitat structure, vegetation/open water ratio, surrounding terrestrial cover type;
 - b. Moderate Projects: Data for small projects plus comprehensive animal species list, potential phosphorous uptake, potential nitrogen uptake;
 - c. Large Projects: Data for small and moderate projects plus quantitative measurement of stem density, evapotranspiration data, and net primary productivity.

4. Projects shall be monitored according to the specifications set forth in the permit, to determine whether the elements of the mitigation plan and permit conditions have been met and whether the wetland acreage created replaces the wetland acreage lost. To this end, the Planning Board may contract with an academic institution, an independent research group, or other qualified professional at the expense of the applicant, or may use its own staff expertise.

The requirements for monitoring shall be specified in the mitigation plan and shall include, but not be limited to:

- a. The time period over which compliance monitoring shall occur;
- b. Field measurements to verify the size and location of the impacted wetland area and the restored/replacement wetland area;
- c. The date of completion of the restoration/replacement;
- d. Field verification of the vegetative, hydrologic, and soils criteria as specified in the mitigation plan and permit.

DRAFT

5. Any mitigation plan prepared pursuant to this local law and accepted by the Planning Board shall become part of the permit for application.
6. The ultimate success of a wetlands mitigation project depends on the proper siting, design, construction and monitoring of the mitigation site. Furthermore, proper maintenance will enable continued success of a mitigation project. All mitigation projects are to be designed by qualified environmental professionals (biologists, engineers, etc).

XIII OTHER LOCAL LAWS AND REGULATIONS

- A. No permit granted pursuant to this local law shall remove any person's obligation to comply in all respects with the applicable provisions of any other Federal, State, County or local law or regulation, including but not limited to the acquisition of any other required permit(s) or approval(s).
- B. If, in any case, the provisions of this local law conflict with any other provisions of the Code of the Town of Beekman, or any Federal, State, County, or other local law or regulation, the provisions which impose the more stringent requirement shall apply.

XIV FUNCTIONS OF PERMITTING AUTHORITY, ADVISORS AND INSPECTOR

- A. Town Clerk/Permit Issuer
 1. Shall provide the applicant with the necessary forms and checklists so that the applicant can be familiar with compliance requirements related to wetlands, watercourses and waterbodies.
 2. Shall receive the application from the applicant.
 3. Shall route the application to the Planning Board, Conservation Advisory Council, the Wetlands Inspector or other agency as directed by the municipality.
 4. Shall, at the direction of the Planning Board, issue or deny the permit with reasons included.
- B. Planning Board
 1. Shall receive the application from the Town Clerk.
 2. Shall request input from the Conservation Advisory Council and sources technically competent in wetland science.
 3. Shall identify information necessary for the application to be "complete" as defined in Section IX.B.
 4. Shall render a decision on permit approval or denial with recommendations regarding actions to be taken, including: issue permit, issue permit with conditions, grant waivers, deny permit with reasons, or identify that no action is required.

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- C. Conservation Advisory Council
Shall provide technical input and recommendations to the Planning Board on applications as they pertain to wetlands, watercourses and waterbodies.
- D. Wetlands Inspector
 1. Shall make on-site inspections during the conduct of the permitted activity as are necessary to determine whether the activity is being carried on in conformity with the provisions of the permit.
 2. May, on written notice to the applicant, suspend or revoke a permit issued pursuant to this local law where it finds that the applicant has not complied with any or all terms or conditions 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.
 3. Shall set forth in writing, in the file kept regarding a permit application, the findings and reasons for revoking or suspending a permit pursuant to this local law.

XV ENFORCEMENT, PENALTIES, AND CORRECTIVE ACTION

- A. Inspection
 1. General Procedure: The Planning Board, Wetlands Inspector, and/or the Conservation Advisory Council may enter upon the lands or waters for the purpose of inspections to determine compliance with this local law and/or for the purpose of undertaking any investigations, examinations, surveys, or other activities necessary for the purposes of this local law. When at all possible, the applicant and/or landowner shall be notified by telephone prior to field investigation.
 2. Inspection Fee: Where the Planning Board deems inspections to be necessary, an applicant may be required to pay an inspection fee in an amount set forth in a fee schedule established by resolution of the Town Board.
 3. Notification: The applicant shall notify the Wetlands Inspector when reaching stages of the activity as may be required in the permit. No activity requiring inspection will be approved without such notification. Advance notice of at least two (2) working days shall be given whenever possible.
- B. Stop Work Order:
 1. The Wetlands Inspector may issue a Stop Work Order when it is found that the permittee is in violation of the provisions of applicable laws, and/or regulations, has not complied

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with any term of such permit issued pursuant to this local law, has exceeded the authority granted in the permit, or has failed to undertake or complete the project in the manner set forth in the permit. A Stop Work Order shall be issued by the Wetlands Inspector notifying the permittee performing the work to suspend all work. Any persons served with a Stop Work Order shall forthwith suspend all activity until the Stop Work Order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which work may be resumed, and shall be served upon the person to whom it is directed either by delivering it to the individual personally or by posting the same upon a conspicuous portion of the area and sending a copy of the same, by registered or certified US mail, return receipt requested to the permittee at the address shown on the permit or approved application.

2. The Wetlands Inspector shall immediately notify the Conservation Advisory Council and the Planning Board when a Stop Work Order has been issued. The Planning Board with the help of the Conservation Advisory Council must inspect and approve corrective actions (See Section XV.D) prior to the lifting of a Stop Work Order.

C. Suspension or Revocation of Permits:

1. The Wetlands Inspector and/or the Planning Board may, on written notice to the Applicant, suspend or revoke a permit issued pursuant to this local law where it finds that the Applicant has not complied with any or all terms or conditions 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.
2. The Planning Board and/or the Wetlands Inspector shall set forth in writing, in the file kept regarding a permit application, the findings and reasons for revoking or suspending a permit pursuant to this local law.

D. Corrective Action:

3. If, upon inspection, it is found that any activities have not been undertaken in accordance with the permit, the applicant shall be responsible for completing those activities according to the permit. Failure of the Wetlands Inspector to carry out inspections shall not in any way relieve the applicant or the bonding company of their responsibilities.
4. When any person has been found in violation of any provision of this local law or conditions imposed by the Planing Board upon an approved permit, and whose permit has been suspended or upon

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whom a Stop Work Order has been issued, corrective action shall be carried out as follows:

- a. When the terms or conditions of an approved permit have been violated and a Stop Work Order has been issued, the Wetlands Inspector may provide a reasonable and specified time within which corrective action shall be completed. The violator may be required to restore the affected wetland, watercourse, and/or buffer to its condition prior to the violation to the satisfaction of the Wetlands Inspector and/or the Planning Board. If restoration is not possible, mitigation (see section XII) shall be required.
 - b. When the violation of the terms of the permit is of such a serious nature that the Wetlands Inspector has suspended the permit or recommends the revocation of the permit, the Wetlands Inspector shall refer the matter to the Planning Board for their determination.
- E. Cease and Desist Order: The Town Board shall have the power, after a hearing or opportunity to be heard, upon due notice, and with the rights to specification of the charges and representation by counsel at such hearing, to direct the violator to cease his or her violation of this local law and to restore the affected wetland to its condition prior to the violation, insofar as that is possible, within a reasonable time and under the supervision of the Wetlands Inspector and/or the Planning Board. If restoration is not possible, mitigation (see section XII) shall be required. Any such order of the Town Board shall be enforceable in an action brought by the Town in any court of competent jurisdiction.
- F. Civil Sanctions: Any person who violates, disobeys, or disregards any provisions of this local law, in addition to a criminal sanction, shall be liable to the People of the Town of Beekman for a civil penalty.
- G. Criminal Sanctions:
1. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including any infraction of a condition of a permit issued pursuant to this local law shall constitute a violation.
 - a. First Offense: Any person violating any order of the Town, regulating wetlands, shall for the first offense, be guilty of a violation punishable by a fine not exceeding three thousand dollars (\$3000.00) or a term of imprisonment not to exceed 15 days.

DRAFT

- b. Restoration Order: In addition to these punishments any offender may be requested to restore the affected wetland to its conditions prior to the offense, insofar as this is possible; mitigation (see section XII) shall be required. A reasonable time for the completion of such restoration shall be effected under the supervision of the Wetlands Inspector, and/or the Planning Board. If necessary the Town of Beekman may seek legal action to enforce compliance.
 - c. Continuing Offense: For the purposes of criminal sanctions only, 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.
2. A second infraction of the provision of this local law, as per the stipulations mentioned above, shall constitute a misdemeanor.
- a. For a second and each subsequent infraction by any person within a three (3) year period, the aforesaid shall be guilty of a Class A misdemeanor punishable by a fine not exceeding five thousand dollars (\$5000) and/or a term of imprisonment of not less than fifteen (15) days nor not more than six (6) months, or both.
 - b. The Town shall prosecute persons alleged to have violated the provisions of the local law and may seek equitable relief to restrain any violation or threatened violation of its provisions.
3. Injunctions and Orders to Show Cause: Notwithstanding any of the penalties or fines herein provided, the Town of Beekman may maintain any action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction the non-compliance of any provision of this local law or permit issued thereunder.
4. Equitable Relief: The Town Board shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this local law in any court of competent jurisdiction.
5. Bond Requirement: In the event of a breach of any condition of a performance bond, the Town Board may institute an action in the Courts upon such bond and prosecute the same to judgment and execution.

DRAFT

6. Appeals:
 - a. Any person aggrieved by any order or decision by the Wetlands Inspector or Conservation Advisory Council may seek relief from the Zoning Board of Appeals.
 - b. Any person aggrieved by any order or decision of the Planning Board may seek judicial review pursuant to a petition in accordance with Article 78 of the Civil Practice local law and Rules in the Supreme Court for the County of Dutchess. Such petition shall be brought within 30 days after the date of the filing of such order or decision with the Town of Beekman Town Clerk.

XVI SEVERABILITY

If any subsection, sentence, clause, phrase, or other part of this local law is for any reason held by any court of competent jurisdiction to be invalid, such decision shall not affect or invalidate the remaining portion of this local law. The Town Board hereby declares that it would have passed this local law and each subsection, sentence, clause, phrase, and other parts thereof irrespective of the fact that any one or more subsections, sentences, clauses, phrases, or other parts be declared invalid.

XVII AMENDMENTS

This local law may from time to time be amended in accordance with the procedures and requirements of the general statutes and as new information concerning soils, hydrology, flooding, or botanical species peculiar to wetlands, waterbodies and watercourses becomes available.

XVIII ASSESSMENT RELIEF

Assessors and boards of assessors shall consider wetland regulations in determining the fair market value of land. Any owner of an undeveloped wetland who has dedicated an easement or entered into a perpetual conservation restriction with the Town Board or Planning Board or a nonprofit organization to permanently control some or all regulated activities in the wetland may be assessed consistent with those restrictions. Such landowner may also be exempted from special assessment on the controlled wetland to defray the cost of municipal improvements such as sanitary sewers, storm sewers, and water mains.

XIX DEFINITIONS

Agriculture Activity – The activity of an individual farmer or other landowner in: grazing and watering livestock, making reasonable use of land and water for agricultural purposes and harvesting the natural products of wetlands. (see section VIII.H)

DRAFT

Applicant – Anyone who files an application for a permit under this local law and who is any of the following: the owner, public or private of the real property affected by the proposed regulated activity, a contract vendee, a lessee of the land, the person who would actually control and direct the proposed activity or the authorized agent of such a person.

Application Receiver – The Town Clerk or other municipal official or employee designated by the municipality as the person to whom an application must be delivered.

Approval Authority – The municipal or administrative board or public official or municipal employee empowered to grant or deny permits under this local law, to require the posting of bonds as necessary, and to revoke or suspend a permit where lack of compliance with the permit conditions is established. The Approval Authority for the Town of Beekman is the Planning Board and/or the Wetland Inspector.

Aquaculture – Cultivating and harvesting products, including fish and vegetation, that are produced naturally in wetlands and installing cribs, racks, and other in-water structures for cultivating these products, but does not include filling, dredging, peat mining, or the construction of any buildings or any water-regulating structures, such as dams.

Boundary of a Wetland – The outer limit of the soils, hydrology, and/or vegetation as defined under Section V and XIX.

Buffer – Wetland/Watercourse/Waterbody – An area surrounding a wetland, watercourse or waterbody that provides benefits important in maintaining a wetland's functional integrity and furnishing protection against the impacts to the wetland from activities in adjacent upland areas. The buffer is subject to the regulations for wetlands as defined in this local law.

Clear Cutting – Complete cutting and removal of an entire stand of trees over 4" in diameter at breast height (4.5'), replaced by natural or planted regeneration.

Conservation Advisory Council – The duly appointed Conservation Advisory Council of the Town of Beekman as created pursuant to Article 12-F, Section 239x and 239y of the General Municipal Law and Chapter 7 of the local laws of the Town of Beekman.

Controlled Area – The wetland, waterbody and/or watercourse and the associated buffer zone that are subject to the regulations of this local law, are determined and defined in Section V and XIX.

Dams and Water Control Measures – Barrier which regulate or obstruct, whether intended or unintended, the natural flow of water or raise, lower, or maintain the level of water.

DRAFT

Date of Receipt of Application by Planning Board – An application shall be deemed “Received” by the Planing Board on the date of the first regular meeting of the Planning Board following the filing of the application and supporting plans pursuant to the provisions of this local law.

Deposit – To fill, grade, discharge, limit, dump, or place any material or the act thereof.

Discharge – The emission of any water, substance or material into a wetland or wetland buffer whether or not such substance causes pollution.

Dominant(s) or Dominance – see “National List of Plant Species that Occur in Wetlands”. See Dutchess County Environmental Management Council (EMC) for copy of Bibliography for source.

Drain – to deplete, reduce or empty of water by drawing off by degrees or in increments.

Dredge – To excavate or remove sediment, soil, mud, sand, shells, gravel, or other aggregate.

Endangered Species – Any native species in imminent danger of extirpation or extinction in New York. (NYSDEC)

Environmental Review Authority/Conservation Advisory Council – the person(s) appointed by the municipality whose responsibilities include reviewing and evaluating the environmental impacts of all wetland permit applications, and making recommendations to the Planning Board.

Excavate – To dig out and remove any material from a wetland, watercourse, or wetland or watercourse buffer.

Facultative Species – Vegetative species that can occur in both upland and wetland systems (see “National List of Plant Species that Occur in Wetlands”).

Filling – see “deposit”

Freshwater Wetlands Map (NYSDEC) – The final freshwater wetlands maps for Dutchess County promulgated by the Commissioner of the New York State Department of Environmental Conservation pursuant to subdivision 24-0301.5 of the New York State Freshwater Wetlands Act, or such map as has been amended or adjusted, and on which are indicated the approximate locations of the actual boundaries of wetlands regulated pursuant to Article 24 of the Environmental Conservation local law.

Floodplain – Lands adjacent to the channel of a watercourse which are covered with sediments deposited during high water events and are covered with water

DRAFT

when the watercourse overflows its banks at flood stage, such as but not limited to those mapped by Federal Emergency Management Agency (FEMA).

Grading – To alter the natural contours of the land, including leveling, smoothing and any other modification of the natural land surface.

Growing Season – The growing season for Dutchess County; approximately May 15 through September 15.

Hydric Soil – Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. Hydric soils in Dutchess County include but are not limited to the following classifications:

<u>Hydric Soils</u>	<u>Potential Hydric Soils</u>
1. Canandaigua (Ca)	1. Kingsbury/Rhinebeck (Kn)
2. Carlisle	2. Linlithgo (Ln)
3. Fluvaquents and Udifluents (Ff)	3. Massena A (MnA)
4. Halsey (Ha)	4. Massena B (MnB)
5. Hydraquents and Medisaprists (Hy)	5. Punsit (Pz)
6. Livingston (Lv)	6. Udorthents (Ue)
7. Palms (Pc)	7. Fredon (Fr)
8. Sun (Su)	8. Raynham Silt Loam (Ra)
9. Wayland (Wy)	

*Potential Hydric Soils are those soils which are most likely to contain inclusions of hydric soils upon field determination. In addition, caution must be exercised in identifying hydric soils when using the soil survey because a soil map unit of a non-wetland soil may have inclusions of hydric soil that were not delineated on the map or vice versa.

Hydrology – a science dealing with the properties, distribution and circulation of water on the surface of the land, in the soil and underlying rocks and in the atmosphere.

Hydrophytic Vegetation – vegetation, including obligate wetland species and facultative species (see definitions for obligate and facultative under “National List of Plant Species”), growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Material – Liquid, solid, or gaseous substances, including, but not limited to soil, silt, gravel, rock, sand, clay, peat, mud, debris, and refuse; any organic or inorganic compound, chemical agent, or matter, including sewage, sewage sludge, or effluent; and agricultural, industrial, or municipal solid waste.

Mining – Removal of material from the subsurface having commercial value.

Mitigation Plan – The plan prepared by the Applicant pursuant to Section XII when the Applicant has demonstrated that either losses or impacts to the wetland

DRAFT

or wetland buffer are necessary and unavoidable as defined in Section XI.D and have been minimized to the fullest extent practicable.

National List of Plant Species that Occur in Wetlands: New York or Northeast – a list of wetland plant species published by the US Fish and Wildlife Service and subdivided into regional and state lists, as amended and updated from time to time. The list separates vascular plants into four basic groups, commonly called “wetland indicator status”, based on a plant species’ frequency of occurrence in wetlands:

- (1) obligate wetland plants (OBL) – occur almost always in wetlands under natural conditions;
- (2) facultative wetland plants (FACW) – usually occur in wetlands, but occasionally are found in non-wetlands;
- (3) facultative plants (FAC) – equally likely to occur in wetlands or non-wetland areas; and
- (4) facultative upland plants (FACU) – usually occur in non-wetlands, but occasionally are found in wetlands

National Wetlands Inventory – An inventory of United States Wetlands conducted by the U.S. Fish and Wildlife Service, which was completed in 1990. Wetlands down to one acre in size are delineated on maps at a 1:24,000 scale based on aerial photo interpretation. The NWI does not delineate legal boundaries of wetlands for regulatory purposes.

New York Natural Heritage Program – A cooperative effort of the NYSDEC and the Nature Conservancy to establish and maintain an up-to-date inventory of the location and status of rare plant and animal species and natural communities in the state.

Obligate Wetland Species – Plant species that, under conditions almost always occur in upland areas (See “National List of Plant Species that Occur in Wetlands”).

Permit – The form of written approval issued by the approval authority for the conduct of a regulated activity within a wetland or regulated wetland buffer. Where jurisdiction exists with the New York State Department of Environmental Conservation or other state or federal agencies, a permit issued by one (1) of these agencies will not be considered a “Permit” for the conduct of locally regulated activities.

Pollution – The presence in the environment of human induced conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant, or animal life or to property.

Project – Any proposed or ongoing action which may result in direct or indirect physical or chemical impact on a wetland, waterbody, watercourse, or controlled area, including but not limited to any regulated activity.

DRAFT

Remove – To dig, dredge, suck, bulldoze, dragline, blast, or otherwise excavate or grade, or act thereof.

Restoration – To reclaim a disturbed or degraded wetland or watercourse in order to bring back one or more functions that have been partially or completely lost by such actions as draining or filling.

Selection Harvest Cutting of Trees – A procedure for harvesting timber in which individual trees or small groups of trees are harvested at periodic intervals (usually 8-15 years) based on their physical condition or degree of maturity. It is associated with uneven-aged management.

Spoil – Earth or rock excavated or dredged.

State Environmental Quality Review Act (SEQRA) – The local law pursuant to Article 8 of the New York Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

Structure – Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to buildings, tennis courts, and swimming pools.

Subdivision – Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy, including any grading, road construction, installation of utilities, or other modifications of any other land use and development preparatory or incidental to any such division, by an person, or by any group of persons acting in concert as part of a common scheme or plan. “Subdivision” of land shall include any map, plat or other plan of division of land, whether or not previously filed. “Subdivisions” of land shall not include the lease of land for open space recreational use and shall not include the division of land by bona fide gift, devise or inheritance, if it is not otherwise a “subdivision” as set forth in the preceding or succeeding sentence. “Subdivision” shall include the creation of units in the condominium form of ownership and the creation of leaseholds in a cooperative.

Threatened Species – Any native species likely to become an endangered species within the foreseeable future in New York.

Timber Harvesting - Any activity which may alter the physical characteristics of any forested land including, but not limited to, any activity involving or associated with the cutting of trees, except that the following activities shall not be considered to be timber harvesting:

- (1) the routine maintenance of roads, easements, and rights of way and the clearing of farm fence line; and
- (2) the clearing of approved subdivision roads, site plans, and public utility easements.

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Town of Beekman Wetlands Maps – Maps prepared and adopted by the municipality defining regulatory boundaries for wetlands.

Vernal Pool – seasonally flooded, isolated pools of standing water that are devoid of naturally occurring fish and that persist, in a year of average precipitation, for at least two months (annual precipitation in Dutchess County normally ranges from 36 to 44 inches). Vernal pools are essential breeding habitat for certain amphibians.

Waterbody – Any natural or artificial pond, lake, reservoir, or other area which usually or intermittently contains water and which has a discernible shoreline.

Watercourse – (1) Rivers, streams, brooks and waterways which are delineated on the most recent edition of the United States Geological Survey topographic maps of the town.

(2) Any other streams, brooks and waterways containing running water for a total of at least three (3) months a year.

(3) Lakes, ponds, marshes, swamps, bogs, natural springs and all other bodies of water, natural or artificial, which are fed by or have discharge to another wetland, waterbody or watercourse.

Wetland – any area which meets one or more of the following criteria:

Lands and waters that meet the definition provided in subdivision 24-0107.1 of the New York State Freshwater Wetlands Act (Title 1 of article 2A) of the Environmental Conservation Law) and have an area of at least 12.4 acres (or, if smaller, have unusual local importance as determined by the NYSDEC Commissioner pursuant to subdivision 240301.1 of the Act). The approximate boundaries of such lands and waters are indicated on the official freshwater wetlands map promulgated by the Commissioner of the Department of Environmental Conservation pursuant to subdivision 240301.5 of the Act, or such a map that has been amended or adjusted pursuant to section 24301.6 of this Title.

All contiguous areas less than 12.4 acres that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions as defined by the Federal Interagency Committee for Wetland Delineation in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1989*. This manual was adopted by the US Army Corps. of Engineers, US Environmental Protection Agency, US Fish and Wildlife Service, and USDA Soil Conservation Service in 1989. All areas less than one acre of unusual local importance, such as vernal pools, kettle shrub pools and intermittent woodland pools, may be considered as wetlands. Importance shall be determined by the Planning Board according to Section V of this local law.

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Wetland Hydrology – The sum total of wetness characteristics in areas that are inundated with saturated soils for a sufficient duration to support hydrophytic vegetation.

Wetlands Inspector – An official(s) designated by the Town Board to enforce this local law.

Wetland Plants of the State of New York 1995 – The list of obligate and facultative wetland and upland species developed by the US Department of Interior, Fish and Wildlife Service, “National List of Plant Species that Occur in Wetlands, New York State: 1988”, in cooperation with the National and Regional Wetland Plant List Review Panels, or as amended and updated.