

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

**ARTICLE XVI - CHAPTER 190-16**

**Watercourse Area Management**

**A. Findings.**

- (1) The Town of Colonie is blessed with many miles of rivers and streams which provide important benefits to every resident. Watercourse areas provide much of the water we drink. They enhance our commerce and provide other economic benefits. Aesthetically pleasing watercourse areas add to the quality of human experience. Watercourse areas may be pleasant to look upon, to work or rest beside or to contemplate. They may enhance the visual scene wherever they occur, whether in cities or in wilderness. Watercourse areas provide a variety of recreational benefits, and they may enhance the value of adjoining properties, public or private. A well-maintained watercourse area may provide a focal point of pride for a community. In spite of these values, watercourse areas are not always accorded treatment which allows them to function properly. Many have been needlessly polluted, unwisely dammed or insensitively channelized, thereby reducing their capability to satisfy diverse human needs.
- (2) A community can reap economic and social benefits of its watercourse areas if its watercourse areas are properly managed. Conversely, a watercourse area can become an economic and social liability if a community neglects a watercourse area or permits adjacent lands to be improperly used; therefore, the Town of Colonie determines that conservation and enhancement of the quality of its watercourse areas and related shoreland resources is necessary and that the watercourse corridor (watercourse and its immediate shoreland environment) is an area of critical environmental significance which, because it is an area which includes the watercourse and the natural and cultural resources that are closely related to it, is the most important zone for concentrating watercourse conservation and management efforts and hereby adopts this Article to be known as the "Town of Colonie Watercourse Area Management Law," to protect and manage said resources.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

**B. Purpose.**

It is the purpose of this article to:

- (1) Encourage planning and development of the natural and man-made watercourse and adjacent lands in the Town of Colonie in ways which will restore, protect, develop and enhance their recreational, cultural, visual and historical amenities; that will minimize the threat to life and destruction of property and natural resources from flooding; and that will preserve and reestablish natural floodplain hydrologic functions; and
- (2) Restore, protect and enhance water quality and associate aquatic resources and water supplies.

**C. Applicability.**

This article shall apply to those watercourse areas which are delineated on the Town of Colonie's map entitled "Town of Colonie Protected Watercourse Areas," which is hereby adopted and declared to be a part of this article. Said map is on file in the Town Clerk's office, and copies are available for reference in the Planning and Economic Development Department.

**D. Prohibited Activities.**

The following activities are expressly prohibited in the designated protected watercourse areas of the Town of Colonie:

- (1) Removal of vegetation, except for the reasonable upkeep or preservation of the property or as otherwise provided herein.
- (2) Piping, except as otherwise provided herein.
- (3) Grading which would alter the contours of the watercourse area in excess of six inches in depth, except as otherwise provided herein.
- (4) Grading of any material other than clean fill.
- (5) Discharging of untreated wastewater or other hazardous substances or pollutants.
- (6) Construction of a structure or structures or any portion thereof greater than 200 square feet in total ground surface area per lot, except for replacement in kind of an existing structure. Encroachments by such structures, 200 square feet or less in total area per lot, shall be permitted if not nearer than 75 feet to the watercourse center line. Removal of vegetation and grading in excess of six inches in depth related to any such encroachment shall be permitted, but shall be limited to the area within 10 feet of the

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- encroachment.
- (7) Street, driveway, or walkway crossings, except for replacement in kind of an existing facility, or those necessary for traffic distribution, traffic safety, or emergency access purposes, or which provide access to otherwise inaccessible parcels. Removal of vegetation, culvert piping, bridge construction, and grading in excess of six inches in depth related to such excepted crossings shall be permitted, but shall be limited to the minimum necessary to construct the crossing.
  - (8) Construction of streets, driveways, or walkways other than those specified in this article, parking areas, patios, or other such surfaces greater than 200 square feet in total ground surface area per lot, except for replacement in kind of an existing facility. Encroachments by such surfaces, 200 square feet or less in total area per lot, shall be permitted if not nearer than 75 feet to the watercourse center line. Removal of vegetation and grading in excess of six inches in depth related to any such encroachment shall be permitted, but shall be limited to the area within 10 feet of the encroachment.

**E. Permits.**

- (1) Activities subject to review and permit. The following activities within the designated protected watercourse area shall require the submission of a watercourse activity permit application and receipt of an approval therefor prior to being undertaken:
  - (a) Any development activity subject to subdivision or site development plan review. However, this provision is not intended to authorize any activity prohibited under this chapter.
  - (b) The installation of any street, driveway, or walkway crossing permitted; or the reconstruction or replacement in kind of any existing structure, culvert, or bridge, or any existing street, driveway, or walkway crossing greater than 200 square feet in total ground surface area.
  - (c) The discharge of stormwater, groundwater or treated wastewater.
  - (d) The installation, reconstruction, replacement or maintenance of public or private utilities.
  - (e) Grading, which would alter the contours of the watercourse area six inches or less in depth, except for residential lawn maintenance or gardening activities or agricultural uses. However, this provision is not intended to authorize any activity prohibited under this chapter.

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

- (2) Standards for issuance of permit. No watercourse activity permit shall be issued by the PEDD unless the activity to be authorized:
  - (a) Is such that it avoids disturbing the watercourse area to the greatest extent reasonably practical.
  - (b) Will not violate the purposes of this article.
  
- (3) Coordination of review. The Planning and Economic Development Department (PEDD), in its review of any application required by this article, shall coordinate its review with the Conservation Advisory Council and, to the extent applicable, integrate review of the watercourse activity permit process with the site development plan review and approval process and subdivision review and approval and other Planning Board approvals.
  
- (4) Submittal requirements. Application for all watercourse area activity permits shall include but not be limited to the following:
  - (a) Application form and fee. Submission to the PEDD of a watercourse area activity permit application on forms prescribed by the Town therefor, together with payment of the required fee therefor, if any, established by the Town Board. The application shall be signed by the owner of the subject property where the activity is proposed.
  - (b) Narrative description. A narrative description of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the Town in general (drainage, utilities, aesthetics and land use compatibility) and including the following:
    - [1] The address of the site.
    - [2] The name of the applicant.
    - [3] The name of the protected watercourse area, as designated on the Protected Watercourse Area Map.
    - [4] A description of existing site and use.
    - [5] A description of intended site development and use.
    - [6] Anticipated impacts on watercourse function and physical character.
    - [7] The impact on adjoining property; visual, drainage or other.
  - (c) Photograph. Photograph(s) of the site.
  - (d) Environmental Assessment Form. A completed Environmental Assessment Form
  - (e) Site development plan. A site development plan outlining the proposed design at a scale of one inch equals 10 feet, one inch equals 20 feet, one inch equals 30 feet or one inch equals 40 feet. Sheet size shall 22 inches by 34 inches or 34 inches by 44

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

inches, which plan shall show:

- [1] The boundary line of property to be developed or used, including any interior lot lines.
- [2] A small scale location map at a scale of one inch equals 2,000 feet. The location map shall be oriented the same as the site development plan.
- [3] The names and uses of all adjoining property owners.
- [4] The location and names of existing adjacent streets.
- [5] The watercourse area name, boundaries and center line.
- [6] Existing structures, utilities and site improvements within 50 feet of the property.
- [7] Proposed buildings and other improvements (with building and setback dimensions).
- [8] Existing/proposed utilities, including locations, sizes and connection, inlet or discharge points.
- [9] Limits of proposed clearing and grading.
- [10] Existing and proposed vegetation and landscaping.
- [11] Location and details of proposed erosion control measures, both temporary and long-term.
- [12] Access.
- [13] Existing and proposed topography at two-foot contour intervals, on and within 50 feet of the project site, related to NGVD 1929.
- [14] Existing/proposed easements.
- [15] North arrow.
- [16] The address of the property.
- [17] The following standard notes:
  - [a] The applicant shall comply with all applicable federal, state and local laws, rules and regulations, including but not limited to the State Environmental Quality Review Act (SEQR), freshwater wetlands permit regulations, the Town Grading Laws and the Town Floodplains Management Laws.
  - [b] The applicant shall bear the sole responsibility for ensuring that all improvements are completed in accordance with approved plans, specifications and standards.
  - [c] No certificate of occupancy shall be issued until all required improvements are satisfactorily completed and the PEDD has issued written authorization to the Building Department.
  - [d] The applicant shall be responsible for keeping existing public highways and adjacent lands free of debris, soil

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

and other matter which may accumulate due to construction related to the site."

[18] Stamp and signature of a New York State licensed professional. Plans shall be prepared by an engineer, surveyor, architect or landscape architect licensed by the State of New York and authorized under their New York license to execute the plans and contents thereof.

- (f) Soil analysis. Soil analysis describing soil types, surface and subsurface rock and groundwater conditions.
  - (g) Additional reports, maps, plans or materials. Such additional reports, maps, plans or materials as the PEDD may reasonably request and deem necessary to make the determinations required by the New York State Environmental Quality Review Act and this article.
- (5) Application review. Upon receipt of a watercourse area activity permit application, the PEDD shall review the submittal for completeness and shall notify the applicant as to its determination. If the application is complete, the PEDD shall refer the proposal to such other agencies as it deems appropriate. Thereafter, based on its review and such recommendations as it may receive from other agencies and after complying with the requirements of SEQRA, the PEDD shall act to approve, deny or approve with modifications said application and notify the applicant of said determination.
- (6) Other applicable permits required. Receipt of a watercourse area activity permit does not preclude the applicant from having to obtain any other applicable permits, such as but not limited to building permits.
- (7) Certificate of compliance. Upon issuance of the watercourse area activity permit and such other permits and approvals as may be necessary; the applicant shall undertake the watercourse area activity in strict compliance with the approved plans and in conformance with such additional conditions as may have been imposed by the PEDD in granting said watercourse area activity permit. Within 30 days after completion of the work authorized by the permit, the applicant shall submit a photograph of the work area and a written certification that the work has been performed and completed according to the permit approval and conditions. The PEDD may make such inspections as necessary to verify conformance, and thereafter the applicant is required to obtain a certificate of compliance from the PEDD before any use or occupancy

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

shall occur on the subject site. If any use or occupancy occurs prior to such time, the provisions of this Chapter, entitled "Penalties for offenses," shall become applicable.

- (8) Continued compliance required. If, at any time after a certificate of compliance has been issued, the PEDD finds that any of the conditions of an approved watercourse area activity permit have not continued to be met or that areas of the watercourse have been damaged in violation of this article, the PEDD shall order the applicant to make such corrections as it deems necessary to bring the situation into compliance with the provisions of the permit or for restoration of the watercourse area(s) damaged in violation of this article. In the event that said applicant has failed to comply or maintain compliance with said permit after being ordered by the PEDD to make the requisite corrections, the provisions of "Penalties for offenses" shall become applicable.
- (9) Expiration. Any watercourse area activity permit shall be valid for one year from the date of issuance. For purposes of this section, the date of issuance shall be the date that an approved application form is filed in the office of the Town Clerk. If there is no substantial change in the condition of the site and/or its environs or the applicable law, a permit may be extended for one additional one-year period upon written request by the applicant and due consideration by PEDD.
- (10) Amendments. Any proposed amendment of a watercourse area activity permit application previously approved by PEDD shall be subject to the same approval procedure as provided for a watercourse area activity permit as provided by this article. However, the PEDD may waive any of the procedural steps to the extent it deems appropriate for an application for an amended watercourse area activity permit, provided that the applicant shall formally submit an application to amend and receive formal approval therefor.

**F. Waivers.**

- (1) The PEDD may waive the procedural and submittal requirements of this article in the event of an emergency requiring immediate repair of a ruptured or severed municipal or public utility, provided that the purposes of this Article are observed to the greatest extent possible.
- (2) In the event of such an emergency, the agency or department responsible for the utility shall notify the PEDD, prior to beginning

**COLONIE LAND USE LAW**  
**ADOPTED 1-4-07 by LOCAL LAW #1 of 2007**

any repair, of the location and nature of the emergency, the action proposed to correct it and the measures which will be taken to ensure protection of the watercourse. If prior notification of the PEDD is not possible and there is imminent danger to life or property, necessary repairs may be performed, provided that the least possible disturbance of the watercourse is ensured and that the PEDD is notified as soon as possible thereafter.

- (3) The PEDD shall inspect the site, if possible, prior to the start of the repair and after the repair is completed and may order such protective or corrective measures as it deems necessary to minimize disturbance of the watercourse.

**G. Appeals and Variances.**

- (1) In processing any appeal or variance application, the Significant Environmental Areas Management Appeals Board shall consider the purpose of this article, all relevant materials relied upon by the PEDD and any materials submitted by the applicant.
- (2) In determining a matter on appeal or an application for a variance, the Board shall issue its decision in writing specifying the nature of the appeal (variance), the documents comprising the appeal (variance), the facts the Board determines to be relevant, the sections of this article or other provisions upon which the Board relies and the Board's conclusion about the appeal (variance).
- (3) All decisions which finally determined an appeal or variance application shall be in writing and filed with the Town Clerk and copies sent to the applicant and the PEDD, and such decision shall be made in compliance with the provisions of SEQRA.
- (4) Any watercourse area variance shall be valid for three years from the date of issuance. For purposes of this section, the date of issuance shall be the date that notice of a SEAMAB decision granting such variance is filed in the office of the Town Clerk. If there is no substantial change in the condition of the site and/or its environs or the applicable law, a variance may be extended annually for an additional one-year period upon written request by the applicant and due consideration by the SEAMAB.

**H. Administration and enforcement.**

The provisions of this article shall be primarily administered and enforced by the PEDD, which shall have the power to make necessary inspections.