

LOCAL LAW NO. ___ OF 2015

**A LOCAL LAW AMENDING
TOWN OF QUEENSBURY ZONING LAW RELATING
TO WATER EXTRACTION AND TRANSPORT**

Be it Enacted by the Queensbury Town Board as Follows:

Section 1. Intent; Authority – The Town Board acknowledges the absence of any explicit definition of ‘Water Extraction’ or such use of land within Chapter 179 of the Town Code and wishes to exercise its legislative authority to provide for and regulate such land use within the Town. The Town Board recognizes that the extraction of water has occurred for over 125 years on the lands of the City of Glens Falls watershed (the largest landowner within the Town). The extraction of water for on-site residential, industrial, commercial or agricultural water use is not governed by this section. This Local Law is adopted pursuant to New York Municipal Home Rule Law.

Section 2. Amendment of Zoning Law – Chapter 179 of the Queensbury Town Code, entitled “Zoning” and known as the “Town of Queensbury Zoning Law” is hereby amended as follows:

A. Paragraph C. of **Section 179-2-010**, entitled “Definitions and word usage” is amended as follows:

(1) The following new definition of “Water Extraction” is added:

WATER EXTRACTION - means withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps, or similar, and including the

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infrastructure associated with the water extraction process necessary for its withdrawal and transport offsite. Water Extraction as herein defined does not include the withdrawal of water for on-site uses.

B. Article 9, entitled “Site Plan Review” is amended as follows:

(1) by adding new *Section 179-9-085*, entitled “*Specific standards*”, together with the following new subsections:

A. *Water Extraction applicants shall submit a full site plan review application in conformity with the requirements established by the Town.*

B. *Water Extraction applicants shall provide evidence of fee title ownership of a minimum of 200 contiguous acres within a Land Conservation zone by submission of copies of filed deeds with the application.*

C. *The Town Board of the Town of Queensbury shall establish a non-refundable application fee which shall be provided by Water Extraction applicants at the time of submission.*

D. *Water Extraction applicants shall provide: a copy of a Water Withdrawal Permit from the New York State Department of Environmental Conservation pursuant to Part 601 of the Department’s Published Regulations issued pursuant to Environmental Conservation Law Article 15; a copy of an application for such permit or modification thereof; or sufficient evidence that such permit is not required, together with such additional evidence and proof as may be required by the Planning Board of the Town of Queensbury as determined by its review of the submission.*

E. *Upon review by the Planning Board of the Town of Queensbury, the Water Extraction applicants shall provide a statement of the maximum daily quantity of water proposed to be extracted, from all extraction points identified by the applicant, the specific location of the identified extraction points, the*

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method of extraction and copies of any permits (applied for or existing), approvals or denials issued by any state or federal agency having jurisdiction of the extraction method, including the New York State Department of Health, as may be applicable, the hours of operation, projected traffic volumes relative to the water volumes proposed to be extracted, projected noise volumes, area lighting proposed for the site and any other similar site conditions as may be required by the Planning Board.

F. Water Extraction applicants shall provide the Planning Board of the Town of Queensbury with a copy of an independent report issued by a qualified professional of a hydrogeological investigation and study which addresses at least the following:

- (1) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or “stress test” or other similar testing regimen accordance with accepted standards within the geology and engineering professions.*
- (2) The characteristics of the aquifer or other ground source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams, and wetland areas and private wells or other existing extraction locations within the zone of contribution.*
- (3) Possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity, and aroma.*

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(4) Proposed extraction volumes shall be sustainable as demonstrated by the study based upon the applicant's land holdings being significant enough to produce sustainable draw of at least the proposed amount from the applicant's proportional land holdings.

G. Water Extraction applicants shall include on the site plan the location of all water bodies located within 500 feet of the extraction point, the precise surveyed location of the extraction point, the existing network of roadways in the vicinity of the extraction point, any proposed new roadways, and any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

H. The Planning Board of the Town of Queensbury shall properly notice and conduct a Public Hearing convened for the purpose of reviewing the application in conformity with the general requirements of site plan review. The Planning Board shall be entitled to adopt whatever procedural rules for the hearing, including the imposition of reasonable time limits for the presentations of the applicants, opponents if any, and the general public, it deems appropriate, fair, and reasonable calculated to afford a full consideration of the issues pertaining to the application.

I. Water transport vehicle access to the extraction site for loading purposes shall occur in such a manner as to safeguard against hazards to traffic and pedestrians on adjacent streets or roads; avoid traffic congestion and traffic safety hazards, or other safety risks identified by the review process.

J. Water transport vehicle traffic shall be designed so as to not exceed the capacity of existing town roadways or cause premature failure, aging or diminished utility of those roadways. Site plan approval may be conditioned

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upon tender of appropriate financial security or direct payment sufficient to repair or improve degraded roadway conditions proximately caused by the water transport vehicle traffic.

K. Water extraction points shall be located no closer than One Thousand (1000) feet from the nearest residence. This provision is only applicable to water extraction and transport off-site and is not applicable to on-site residential, industrial, commercial or agricultural purposes.

L. Water Extraction Points shall be selected to minimize impact upon the environment and applicants shall limit site clearing and roadway development to the minimum necessary to achieve access.

C. **Table 2**, entitled “Summary of Allowed Uses in Residential Districts” is amended as follows:

(1) **“Water Extraction”** is added as a Site Plan Review (SPR) use in the Land Conservation – 10 Acre (LC-10) and Land Conservation – 42 Acre (LC-42) zones.

Section 3. Severability – The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 4. Repealer – All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed. In particular, this Local Law is specifically intended to supersede the amended provisions of the current Town of Queensbury Zoning Law.

Section 5. Effective Date – This Local Law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.

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