

LOCAL LAW NO. 2 OF 2013

A LOCAL LAW ESTABLISHING PROPERTY OWNER LIABILITY RELATING TO BEAVER DAMS IN THE TOWN OF CORINTH

NOW, THEREFORE, BE IT ENACTED BY THE CORINTH TOWN BOARD AS FOLLOWS:

1. Title and Authority - This Local Law shall be known as the Town of Corinth Beaver Dam Liability Local Law. It is adopted pursuant to Municipal Home Rule Law §10.

2. Intent – Flooding resulting from the failure of beaver dams or their impoundment of water can damage Town roads and other property owned by the Town. The cost of repair of this damage is typically borne by the Town. State statutes and regulations provide restrictions and permit requirements for activities related to beaver dams but do not mandate management. However, several methods are available to regulate the level and flow from beaver dam impoundments while maintaining the beavers' habitat. This Local Law is intended to ensure that property owners manage beaver dams located on their property to prevent damage to Town property from occurring and, if damage does occur, that the owner of the property where the beaver dam is located bears the cost of repair or replacement.

3. Beaver Dam Management Required – Property owners shall monitor and manage beaver dams located on their property to prevent flooding and other damage to Town property. All such management activities shall be undertaken after consultation with the New York State Department of Environmental Conservation and in strict compliance with applicable statutes, rules and regulations including, but not limited to, permit requirements. Non-lethal management practices are preferred and encouraged.

4. Abatement of Violation – (A) If the Town becomes aware of a beaver dam which it believes poses a threat to Town property in violation of this Local Law, an appropriate officer of the Town may, but is not required to, notify the property owner and order compliance with the provisions of this Local Law by written Notice of Violation to the property owner. Appropriate officers of the Town under this section shall include, but not be limited to, the Town Highway Superintendent, the Town Code Enforcement Officer or the Town Supervisor.

(B) If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation within twenty (20) days of service of the Notice of Violation, then the Town may request the owner's permission for access to the property to take any and all measures reasonably necessary to abate the violation. The cost of implementing and maintaining such measures shall be the sole responsibility of the property owner.

(C) If refused access to the property, the Town may seek a warrant in a Court of competent jurisdiction for authorization to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the Town may seek a Court order to take any and all measures reasonably necessary to abate the violation. The cost of implementing and maintaining such measures shall be the sole responsibility of the property owner.

(D) The Town does not assume any responsibility or duty for maintenance of beaver dams on private property by virtue of this Local Law. The Town has the discretion to maintain beaver dams which it believes to be in violation of this Local Law if the property owner fails to do so to prevent damage to Town highways or other Town property, but no cause of action shall exist against the Town for failure to exercise that discretion.

5. Liability for Damage – If any Town road or other Town property suffers damage as a result of a beaver dam for which the Town notified the property owner with a written Notice of Violation which violation was not abated within twenty (20) days of its service whether by flooding due to dam failure or impoundment or any other cause, the owner of the property where the beaver dam is located shall be liable for the cost of repair or replacement of the damaged property. Service may be either in person, by US First Class mail to the address for the property owner in the Town Assessor’s office for delivery of real property tax bills, fax or e-mail. The Town shall bill the property owner for such cost, which amount shall be payable within thirty (30) days. If the full amount is not paid within such time, the charge shall be assessed against the property on the next Town tax bill. Any costs imposed hereunder shall constitute a lien upon the real property where the beaver dam is located until paid in full.

6. Remedies Not Exclusive – The remedies listed in this Local Law are not exclusive of any other remedies available under any applicable federal, State or local laws, rules or regulations, and it is within the discretion of the Town to seek cumulative remedies.

7. 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.

8. 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.

9. 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.

**NOTICE OF PUBLIC HEARING
ON PROPOSED LOCAL LAW
RELATING TO BEAVER DAMS
IN THE TOWN OF CORINTH**

NOTICE IS HEREBY GIVEN that the Corinth Town Board will hold a public hearing on Thursday, October 10, 2013, beginning at 7:10 p.m. at the Corinth Town Hall, 600 Palmer Avenue, Corinth, New York, concerning proposed Local Law No. 2 of 2013. The proposed Local Law would (a) require property owners to monitor and manage beaver dams on their property, (b) permit the Town to undertake such management at the expense of the property owner and (c) require the property owner to bear the cost of repair or replacement of any Town property, including roads, damaged or destroyed as a result of a beaver dam.

Copies of the proposed Local Law are on file in the Town Clerk's Office and also on the Town of Corinth website at www.townofcorinthny.com.

PLEASE TAKE FURTHER NOTICE that all interested parties will be heard at this time and place.

Dated: September 17, 2013
Rose E. Farr, RMC
Corinth Town Clerk