LOCAL GOVERNMENT FRESHWATER WETLANDS PROTECTION LAW

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Local Law No. 1 of 1976.

A LOCAL LAW of the Village of Stillwater pursuant to Article 24 of the State Environmental Conservation Law to provide for the protection, preservation and conservation of the freshwater wetlands within its boundaries by establishing a permit system with regard to regulated activities in freshwater wetlands and adjacent areas and by establishing the procedures and standards for the processing of permit applications.

BE IT ENACTED by the Board of Trustees of the Village of Stillwater, New York, as follows:

Section 1. Short title.

This law shall be known as the Freshwater Wetlands Protection Law of the Village of Stillwater.

Section 2. Declaration of policy.

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

Section 3. Statement of findings.

1. The freshwater wetlands located in the Village of Stillwater are invaluable resources for flood protection, wildlife habitat, open space and water resources.

2. Considerable acreage of freshwater wetlands in the village has been lost, despoiled or

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

~~County~~
~~City~~
~~Town~~ of STILLWATER
Village

Local Law No. 1 of the year 19 76

A local law to provide for the protection, preservation and conservation of the freshwater wetlands within the Village of Stillwater.
(Insert title)

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

~~County~~
~~City~~
~~Town~~ of Stillwater as follows:
Village

(If additional space is needed, please attach sheets of the same size as this and number each)

impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unregulated acts.

3. Recurrent flooding aggravated or caused by the loss of freshwater wetlands has serious effects upon natural ecosyatems.

4. Freshwater wetlands conservation is a matter of village concern.

5. Any loss of freshwater wetlands deprives the people of the Village of Stillwater of some or all of the many and multiple benefits to be derived from wetlands, to wit:

(a) flood and storm control by the hydrologic absorption and storage capacity of freshwater wetlands;

(b) wildlife habitat by providing breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species;

(c) protection of subsurface water resources and provision for valuable watersheds and recharging ground water supplies;

(d) recreation by providing areas for hunting, fishing, boating, hiking, bird watching, photography, camping and other uses;

(e) pollution treatment by serving as biological and chemical oxidation basins;

(f) erosion control by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and harbors;

(g) education and scientific research by providing readily accessible outdoor bio-physical laboratories, living classrooms and training and education resources;

(h) open space and aesthetic appreciation; and

(i) sources of nutrients in freshwater food cycles and nursery grounds and sanctuaries for freshwater fish.

7. Regulation of freshwater wetlands, in accordance with the agricultural exemption established in section 5 hereof, is consistent with the legitimate interests of farmers and other landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of the wetlands, selectively cut timber and otherwise engage in the use of land for agricultural production.

Section 4. Definitions.

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

1. "Adjacent area" means any land in the Village of Stillwater immediately adjacent to a freshwater

watershield (Brasenia Schreberi), and spatterdock (Nuphar spp.);

(5) free-floating vegetation; including, among others, duckweed (Lemna spp.), big duckweed (Spirodela polyrhiza), and watermeal (Wolffia spp.);

(6) wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently water-logged soils to give them a competitive advantage over other open land vegetation; including, among others, sedges (Carex spp.), rushes (Juncus spp.), cattails (Typha spp.), rice cut-grass (Leersia oryzoides), reed canary grass (Phalaris arundinacea), swamp loosestrife (Decodon verticillatus), and spikerush (Eleocharis spp.);

(7) bog mat vegetation; including among others, sphagnum mosses (Sphagnum spp.), bog rosemary (Andromeda glaucophylla), leatherleaf (Chamaedaphne calyculata), pitcher plant (Sarracenia purpurea), and cranberries (Vaccinium macrocarpon and V. oxycoccos);

(8) submergent vegetation; including, among others, pondweeds (Potamogeton spp.), naiads (Najas spp.), bladderworts (Utricularia spp.), wild celery (Vallisneria americana), coontail (Ceratophyllum demersum), water milfoils (Myriophyllum spp.), muskgrass (Chara spp.), stonewort (Nitella spp.), waterweeds (Elodea spp.), and water smartweed (Polygonum amphibium);

(b) lands and submerged lands containing remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided further that such conditions can be expected to persist indefinitely, barring human intervention;

(c) lands and waters enclosed by aquatic or semi-aquatic vegetation as set forth herein in paragraph (a) and dead vegetation as set forth in paragraph (b), the regulation of which is necessary to protect and preserve the aquatic and semi-aquatic vegetation; and

(d) the waters overlying the areas as set forth in (a) and (b) and the lands underlying (c).

8. "Freshwater wetlands map" means a map on which are indicated the boundaries of any freshwater wetland and which has been filed with the clerk of the Village of Stillwater by the State Department of Environmental Conservation pursuant to section 24-0301 of the State Environmental Conservation Law.

9. "Local government" means a city, county, town, or village.

10. "Party in interest" means the applicant, the Agency, the State Department of Environmental Conservation,

each local government in which the regulated activity or any part thereof is located, and any person who appears and wishes to be a party in interest at the public hearing held pursuant to section 7 of this law.

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

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

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

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

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

16. "State agency" means any State department, bureau, commission, board or other agency, public authority or public benefit corporation.

17. "State" means the State of New York.

18. "Subdivision of land" means 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 improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or

controlling such 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. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses and shall not include the division of land by bona fide gift, devise or inheritance.

Section 5. Permits.

1. Except as provided in subdivision 2 of this section, no person shall conduct a regulated activity on any freshwater wetland or adjacent area unless such person has first obtained a permit pursuant to this law.

2. No permit under this law shall be required for:

(a) The deposition or removal of the natural products of freshwater wetlands and adjacent areas by recreational or commercial fishing, shellfishing, aquiculture, hunting or trapping, where otherwise legally permitted and regulated.

(b) The activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of wetlands or adjacent areas, selective cutting of timber, draining land or wetlands for growing agricultural products, and otherwise engaging in the use of wetlands or other land for growing agricultural products, except that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded hereunder. Each farmer or other landowner who intends to conduct an otherwise regulated activity shall notify the Agency in writing, prior to conducting the activity, of his or her intention to engage in such activity, stating the approximate acreage of freshwater wetland or adjacent area affected, the location thereof, the methods to be employed, and the uses to be made of such land. A soil and water conservation plan prepared by a Soil and Water Conservation District and filed with the Agency shall be deemed sufficient notification for the purposes of this paragraph.

(c) Public health activities, orders and regulations of the Department of Health of the State of New York, the County of Saratoga or the Village of Stillwater undertaken in compliance with section 24-0701(5) of the State Environmental Conservation Law.

(d) Activities subject to the review jurisdiction of the State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under Article 7 or Article 8 of the State Public Service Law, respectively. The standards and restrictions of this

law will be applied by said bodies in determining whether to issue a certificate of environmental compatibility and public need under such articles.

(e) Any actual and ongoing emergency activity which is immediately necessary for the protection and preservation of life or property or the protection or preservation of natural resource values. Such emergency activities include, for example: search and rescue operations; preventive or remedial activities related to large-scale contamination of streams or other bodies of water; floods, hurricanes and other storms; and public health concerns. Within five days of the end of such an emergency involving the undertaking of any activity which otherwise would be treated as a regulated activity under this law, the person chiefly responsible for undertaking such emergency activity shall send a written statement to the Agency setting forth the pertinent facts regarding such emergency, including an explanation of the life, property or resource values such activity was designed to protect or preserve.

(f) Any activity located in a freshwater wetland where such wetland is located in more than one city, town or village

Section 6. Application for permit; processing.

1. Any person proposing to conduct or cause to be conducted a regulated activity requiring a permit under this law upon any freshwater wetland or adjacent area, shall file an application for a permit with the clerk of the Village of Stillwater. The clerk shall immediately forward such application to the Agency.

2. An application for a permit shall be filed by the applicant on a form prescribed by the Agency. Such application shall set forth the purpose, character and extent of the proposed regulated activity. The application shall include a detailed description of the regulated activity, a map showing the area of freshwater wetland or adjacent area directly affected, with the location of the proposed regulated activity thereon, a deed or other legal description describing the subject property, and such additional information as the Agency deems sufficient to enable it to make the findings and determinations required under this law.

The application shall be accompanied by a list of the names of the owners of record of lands adjacent to the freshwater wetland or adjacent area upon which the project is to be undertaken and the names of known claimants of water rights, of whom the applicant has notice, which relate to any land within, or within one hundred feet of the boundary of, the property on which the proposed regulated activity will be located.

An application shall not be deemed to be completed or received until the Agency determines that all such information, including any additional information requested, has been supplied in a complete and satisfactory form.

3. The clerk of the Village of Stillwater shall cause a copy of such completed application to be mailed to all local governments where the proposed activity or any part thereof is located.

4. Within five days of its receipt of a completed application for a permit regarding a proposed regulated activity, the Agency shall provide the applicant with a notice of application which the applicant shall publish at his or her own expense at least once in each of at least two newspapers having a general circulation in the Village of Stillwater.

Said notice of application shall be in a form prescribed by the Agency and shall:

(a) specify that persons wishing to object to the application should file a notice of objection by a specified date, together with a statement of the precise grounds of objection to the application, with the Agency;

(b) specify that if no notices of objection are timely filed or if the Agency determines that the proposed activity is of such a minor nature as to not affect or endanger the balance of systems within any freshwater wetland, then the Agency, in its discretion, may determine a hearing is not necessary and dispense with the public hearing; and

(c) specify that the application, including all documents and maps therewith, is available for public inspection at the office of the clerk of the Village of Stillwater.

Notwithstanding any other provision of this section, the Agency may in its discretion dispense with the requirement for a notice of application and require a notice of hearing pursuant to subdivision 6 of this section.

5. (a) No sooner than thirty days and not later than sixty days after its receipt of a completed application for a permit regarding a proposed regulated activity, and after the publication of a notice of application pursuant to subdivision 4 of this section, the Agency shall hold a public hearing on such application at a suitable location in the Village of Stillwater, which hearing shall be held pursuant to the provisions of section 7 of this law.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, where no notice of objection to the notice of application published pursuant to subdivision 4 of this section shall have been filed within the time specified by that notice or where the Agency determines that the

proposed activity is of such a minor nature as not to affect or endanger the balance of systems within any freshwater wetland, the Agency may, in its discretion, dispense with such hearing. Where the Agency finds that a public hearing is not necessary, it shall publish a decision setting forth its reasons therefor, which decision shall be a matter of public record and shall be mailed to each local government where the proposed regulated activity or any part thereof will be located. Public notice of such decision that a public hearing is not necessary shall be provided in the same manner as notice of application set forth in subdivision 4 of this section.

6. (a) The Agency shall within twenty-one days of receipt of a completed application provide the applicant with a notice of hearing which the applicant shall publish at his or her own expense at least fifteen days prior to the date set for the hearing, at least once in each of at least two newspapers of general circulation in the Village of Stillwater

(b) At least fifteen days prior to the date set for the hearing, the Agency shall by certified mail provide a notice of hearing to each local government within whose boundaries the proposed regulated activity or any portion thereof will be located.

(c) At least fifteen days prior to the date set for the hearing the Agency shall by certified mail provide notice of hearing to all owners of record of land adjacent to the affected freshwater wetland or adjacent area and to all known claimants of water rights, of whom the applicant has notice, which relate to any land within, or within one hundred feet of the boundary of, the property on which the proposed regulated activity will be located.

(d) The notice of hearing shall:

(1) state the name of the applicant;

(2) specify the location and outline the scope of the proposed regulated activity;

(3) specify the date, time and place of the public hearing on the application;

(4) specify that persons wishing to be parties in interest and eligible to be heard at such public hearing, if any, should file a notice of appearance by a specified date, together with a statement of the precise grounds of support of, opposition to or interest in the application, with the Agency;

(5) specify that any person who wishes to be a party in interest without filing a notice of appearance may do so by appearing at the public hearing and indicating his or her desire to be a party in interest, if a public hearing is held;

(6) specify that if no notices of appearance are timely filed by any party in interest and if the applicant waives any public hearing, then the public hearing may be cancelled by the Agency; and

(7) specify that the application, including all documents and maps therewith, is available for public inspection at the office of the clerk of the Village of Stillwater.

7. The Agency shall make the application, including all documents and maps associated with it, available for public inspection at the office of the clerk of the Village of Stillwater.

8. If no timely notice of appearance has been filed as provided in the notice of hearing published pursuant to subdivision 6 of this section and the applicant waives in writing any public hearing on his or her application, the Agency may dispense with a public hearing and in such instance shall provide public notice of the cancellation of the hearing.

9. For any notice cancelling a hearing which has been scheduled, notice shall be given on the same basis as the notice of public hearing provided in subdivision 6 of this section.

10. The Agency may establish permit fees to assist in its implementation of this law.

Section 7. Public hearing on a permit application.

1. Any public hearing held on a permit application received under this law shall be conducted by a hearing officer designated by the Agency. The hearing officer shall have full authority to control the conduct and procedure of the hearing, and shall be responsible that a complete record of the hearing be kept. The public hearing shall be held within the Village of Stillwater.

2. (a) Any person may appear as a party in interest, notwithstanding the failure of such person to file a timely notice of appearance, by appearing at the hearing and making known his or her desire to be a party in interest. Persons who are not parties in interest may be allowed to participate in the hearing where the hearing officer finds that such participation would be in the public interest.

(b) All parties in interest shall be afforded an opportunity to present oral and written arguments on issues of law and policy and an opportunity to call witnesses in their behalf and to present oral and written evidence on issues of fact. The hearing officer shall permit the parties in interest to cross-examine witnesses but may limit such cross-examination to avoid the introduction of irrelevant or repetitious material in the record of the hearing.

Section 8. Decision on permit application.

1. Where a public hearing has been held regarding a permit application, the Agency shall either issue the permit requested, with or without conditions, or deny the application.

The decision by the Agency to issue or deny a permit after public hearing shall be based on the record of the hearing and shall be made in writing within thirty days of the Agency's receipt of the hearing record.

2. Where no public hearing regarding a permit application has been held, either because a hearing was determined not to be necessary pursuant to paragraph b of subdivision 5 of section 6 of this law or because no notice of appearance was filed with regard to the public hearing and a hearing was cancelled pursuant to subdivision 8 of section 6 of this law, the Agency shall compile an official file consisting of documents submitted by the applicant and any additional documents relied on by the Agency with respect to the application. The Agency may also take notice of general, technical or scientific facts within the specialized knowledge of the Agency. Any document made part of such official file shall be available for inspection by the applicant and any interested member of the public. On the basis of such file, the Agency shall either issue the permit requested, with or without conditions, deny the application or order a public hearing to be held pursuant to the provisions of this law.

The decision by the Agency to issue or deny a permit or to order that a hearing be held shall be based on the official file and shall be made in writing within thirty days of its completion of the official file and in any event within sixty days of its receipt of a completed application. Provided, that in the case where there have been no objections filed regarding a proposed project, the issuance of a permit shall be deemed to be a written decision by the Agency.

3. A copy of the decision of the Agency on each application for a permit under this law shall be mailed by the Agency as soon as practicable following such decision to the applicant and to each local government within whose boundaries the proposed regulated activity or any portion thereof is located and, if a public hearing has been held regarding the application, to each party in interest.

Section 9. Standards for permit decisions.

1. In granting, denying or conditioning any permit, the Agency shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers, and protection or enhancement of the several functions of the freshwater wetlands and the benefits derived therefrom which are set forth in section 3 of this law.

2. No permit shall be issued by the Agency pursuant to this law unless the Agency shall find that:

(a) the proposed regulated activity is consistent with the policy of this law to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of freshwater wetlands, and to regulate the development of such wetlands in order to secure the natural benefits of freshwater wetlands, consistent with the general welfare and beneficial economic, social and agricultural development of the village

(b) the proposed regulated activity is consistent with the land use regulations applicable in the Village of Stillwater pursuant to section 24-0903 of Article 24 of the State Environmental Conservation Law;

(c) the proposed regulated activity is compatible with the public health and welfare;

(d) the proposed regulated activity is reasonable and necessary; and

(e) there is no reasonable alternative for the proposed regulated activity on a site which is not a freshwater wetland or adjacent area.

The applicant shall have the burden of demonstrating that the proposed regulated activity will be in accord with the standards set forth in this subdivision.

3. Duly filed written notice by the State or any agency or subdivision thereof to the Agency, that the State or any such agency or subdivision is in the process of acquiring the affected freshwater wetland 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 may be provided at any time prior to the Agency's decision to issue or deny a permit for the regulated activity.

Section 10. Conditions to a permit.

1. Any permit issued pursuant to this law may be issued with conditions. Such conditions may be attached as are necessary to assure the preservation and protection of affected freshwater wetlands and to assure compliance with the policy and provisions of this law and the provisions of the Agency's rules and regulations adopted pursuant to this law.

2. Every permit issued pursuant to this law shall contain the following conditions:

(a) the Agency shall have the right to inspect the project from time to time;

(b) the permit shall expire on a date certain;

(c) the permit holder shall notify the Agency of the date on which project construction is to begin, at least five days in advance of such date, and

(d) the Agency's permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit.

3. The Agency shall set forth in writing in the file it keeps regarding a permit application, its findings, and reasons for all conditions attached to any permit.

Section 11. General powers of the Agency.

In order to carry out the purposes and provisions of this law, the Agency shall have the following powers:

1. To appoint officers, agents, employees, and prescribe their duties and qualifications and fix their compensation;

2. To adopt, amend, and repeal, after public hearing (except in the case of rules and regulations that relate to the organization or internal management of the Agency), such rules and regulations, consistent with this law, as it deems necessary to administer this law, and to do any and all things necessary or convenient to carry out the purpose and policies of this law;

3. To contract for professional and technical assistance and advice; and

4. To hold hearings and subpoena witnesses in the exercise of its powers, functions and duties provided for by this law.

Section 12. Other laws and regulations.

1. To the greatest extent practicable, any public hearing held pursuant to section 7 of this law shall be incorporated with any public hearing required by or pursuant to the New York State Town Law, Village Law, General City Law, General Municipal Law or Environmental Conservation Law relating to approvals or permits otherwise required for the undertaking of regulated activities on the freshwater wetland or adjacent area in question.

2. No permit granted pursuant to this law shall remove any person's obligation to comply in all respects with the applicable provisions of any other federal, State or local law or regulation, including but not limited to the acquisition of any other required permit or approval.

Section 13. Bonding requirements.

1. The Agency may require that, prior to commencement of work under any permit issued pursuant to this law, the permittee shall post a bond with the Agency, in an amount determined by the Agency, conditioned upon the faithful compliance with the terms of such permit and for the indemnification of the Village of Stillwater for restoration costs resulting from failure to so comply. Such bond shall be issued by a corporate surety authorized to do business in the State and shall be in favor of the Village of

Stillwater. It shall remain in effect until the Agency certifies that the work has been completed in compliance with the terms of the permit or the bond is released by the Agency, or a substitute bond is provided.

2. The Agency shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for imposing a bond pursuant to this section.

Section 14. Suspension or revocation of permits.

1. The Agency may suspend or revoke a permit issued pursuant to this law where it finds that the permittee has not complied with any or all terms of such permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in the application.

2. The Agency shall set forth in writing in the file it keeps regarding a permit application its findings and reasons for revoking or suspending a permit pursuant to this section.

Section 15. Violation; Penalties.

1. Administrative sanctions. Any person who violates, disobeys or disregards any provision of this law, including any provision of any permit issued pursuant to this law or any rule or regulation adopted by the Agency pursuant to this law, shall be liable to the people of the State for a civil penalty of not to exceed three thousand dollars for every such violation, to be assessed, 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, by the Agency. Such penalty may be recovered in an action brought by the Attorney General at the request and in the name of the Agency in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Agency before the matter has been referred to the Attorney General, and such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Attorney General with the consent of the Agency. In addition, the Agency shall have power, following a hearing held in conformance with the procedures set forth in section 71-1709 of the State Environmental Conservation Law, to direct the violator to cease his or her violation of this law and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the Agency. Any such order of the Agency shall be enforceable in an action brought by the Attorney General at the request and in the name of the Agency in any court of competent jurisdiction. Any civil penalty or order issued by the Agency pursuant to

this subdivision shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

2. Criminal sanctions. Any person who violates an order, permit or rule or regulation of the Agency regulating freshwater wetlands and adjacent areas pursuant to this law shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than five hundred nor more than one thousand dollars; for a second and each subsequent offense he or she shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than two thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Agency. 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.

Section 16. Enforcement.

1. The Attorney General, upon his or her own initiative or upon complaint of the Agency, shall prosecute persons alleged to have violated any such order of the Agency pursuant to this law.

2. The Agency shall have the right to seek equitable relief to restrain any violation or threatened violation of any provisions of this law.

Section 17. Review and appeal.

1. Any decision or order of the Agency, or any officer or employee thereof, made pursuant to or within the scope of this law may be reviewed at the instance of any person affected thereby, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Village of Stillwater, by the Board in accordance with title 11 of Article 24 of the State Environmental Conservation Law, provided such review is commenced by the filing with the Board of a notice of review within thirty days after service of such order or notice of such decision given, as the case may be.

2. Any party to any proceeding before the Agency may make an appeal to the Board in accordance with title 11 of Article 24 of the State Environmental Conservation Law from any order or decision of the Agency, or any officer or employee thereof, issued or made pursuant to or within the scope of this law, provided such appeal is commenced by the filing with the Board of a notice of appeal within thirty

days after service of such order or after notice of such decision given, as the case may be;

3. Any decision or order of the Agency, or any officer or employee thereof, made pursuant to or within the scope of this law may be reviewed at the instance of any person, including but not limited to any owner of the affected wetland or adjacent area and any resident or citizen of the Village of Stillwater, in accordance with Article 78 of the State Civil Practice Law and Rules, provided such review is commenced within thirty days of the filing of such decision or order; and the limitation upon the availability of such remedy as prescribed in section 7801 of the Civil Practice Law and Rules shall not be applicable to the applications for review of determinations and orders made pursuant to this law.

4. The institution of a judicial proceeding to review a determination or order of the Agency shall preclude the institution of a proceeding before the Board to review such a determination or order. The availability of such review by the Board shall not affect the right of any person to seek review of a determination of the Agency as provided in Article 78 of the State Civil Practice Law and Rules.

Section 18. Severability.

If any section of this law or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances and to this end the provisions of each section of this law are hereby declared to be severable.

Section 19. Effective date.

This law shall take effect upon the filing with the clerk of the Village of Stillwater of the final freshwater wetlands map by the State Department of Environmental Conservation pursuant to section 24-0301 of the New York State Environmental Conservation Law applicable to any or all lands within the Village of Stillwater.