

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Allegany

FILED
State RECORDS
MAR 26 2024

DEPARTMENT OF STATE

Local Law No. 1 of the year 2024

A local law Amendments to the Town of Allegany Zoning Ordinance III Adding an Aquifer
(Insert Title)
Overlay Protection District

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

County City Town Village
(Select one.)

of Allegany

as follows:

See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Local Law No. 1 of the Year 2024
Amendments to the Town of Allegany Zoning Ordinance III
Adding an Aquifer Overlay Protection District

Allegany Town Board

Be it enacted by the Town Board of the Town of Allegany, County of Cattaraugus and State of New York, to protect the health, safety and welfare of the residents of the Town of Allegany, as follows:

SECTION 1. TITLE

This Local Law shall be known as Local Law No. 1 of the Year 2024 and shall be titled Amendment to the Town of Allegany Zoning Ordinance III Adding an Aquifer Overlay Protection District.

SECTION 2. AUTHORITY

New York Town Law §§ 261, 264 and 265 as well as § 11.01 of Town of Allegany Zoning Ordinance III.

SECTION 3. PURPOSE, LEGISLATIVE INTENT AND LEGISLATIVE FINDINGS

The purpose of the Aquifer Protection Overlay District (APOD) is to protect the health and welfare of residents of the Village and Town of Allegany by minimizing the potential for aquifer contamination and aquifer depletion in the Town. The Town of Allegany lies over aquifers covering the entire Town. These can be divided into two areas described in Section 5.27B(1) of the Text of the Amendment to the Town of Allegany Zoning Ordinance III (see Section 4 of this Local Law). Both provide drinking water and its natural discharge is essential to the maintenance of healthy aquatic and associated terrestrial ecosystems in wetlands, streams and lakes. The Town has determined that a limiting factor on the residential and commercial carrying capacity of Allegany is its capability to provide groundwater in sufficient quality and quantity so that water use by some users does not adversely affect other users. Also, where subsurface disposal systems (septic systems) are used, another limiting carrying capacity factor is the subsurface ability to accept and dilute wastewater without adversely affecting the quality of groundwater.

New York Town Law § 272-a(11)(a) requires that "All town land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section. New York Town Law § 272-a (2)(a) defines a comprehensive plan as "the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 .. of the City of having been submitted to referendum pursuant to the provisions of ~~§ 36~~ ~~§ 37~~ of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

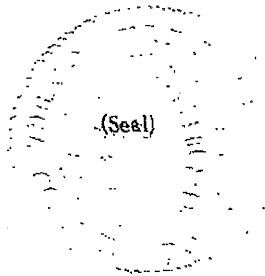
I hereby certify that the local law annexed hereto, designated as Local Law No. of 19 of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

James J. Porter
..... Village Clerk
officer designated by local legislative body

Date: June 1, 1983



(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Cayuga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Raymond J. Zand
.....
Signature
Village Attorney
.....
Title

Date: June 1, 1983

~~County~~
~~City~~ of Cato
~~Town~~
Village

and instruments for the immediate and long-range protection, enhancement, growth and development of the town.”

The Town of Allegany Comprehensive Plan, adopted December 29, 2011, repeatedly demonstrates the Town of Allegany’s commitment to protecting aquifers as follows:

- Aquifers are important reservoirs of ground water. In Allegany most drinking water is supplied from aquifers, whether residents receive their water from private wells or from the public water supply, which also draws its water from wells. Page 2 - 3 The US Department of the Interior Geological Survey (USGS) has mapped aquifers in Western New York. A substantial aquifer is associated with the Allegheny River. There are also mapped aquifers associated with Five Mile Creek and Nine Mile Creek. The lower reaches of Chipmonk Creek (near Flatstone Road and downstream of this road) is also associated with the mapped aquifer. (See Hydrologic Features Map). The mapped aquifers are classified as Primary and non-primary aquifers. In 1980 the NYS Department of Health identified eighteen Primary Water Supply Aquifers (also referred to simply as Primary Aquifers) across New York State. These aquifers are defined as "highly productive aquifers presently utilized as sources of water supply by major municipal water supply systems." As shown on the Hydrologic Features Map, much of the mapped aquifer in Allegany is designated as a Primary aquifer.

(Town of Allegany Comprehensive Plan, adopted December 29, 2011, at Pages 2-2 – 2-3).

- An adequate and safe supply of potable water is vital for any community. As described above, the Town's municipal water system purchases its water from the Village of Allegany, which draws its supply from three wells overlying a substantial unconfined river valley aquifer. Aquifers are recharged (new water is added) by rainwater and other water percolating through the ground into the aquifer. There is the potential during this natural process for water to pick up materials that could contaminate the groundwater. These materials include fertilizer, oil and gas drips, and other potential contaminants.

In order to protect drinking water supply, health professionals encourage communities to identify Wellhead Protection Areas (WHPAs), which are defined in the federal 1986 Safe Drinking Water Act Amendments as “the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.” A WHPA is the land area that contributes water, and therefore potential contaminants, to wells. WHPAs are also called “zones of contribution,” “contributing areas,” and “recharge areas.”

The Cattaraugus County Health Department (CCHD) has been working with the Town and Village of Allegany to develop a Wellhead Protection Plan for the Village’s water

wells. As a first step, the CCHD prepared a hydrogeologic computer model which identified a wellhead protection area for the Villages' three water wells. The wellhead protection area consists of two sub-areas. The primary recharge area (wellhead protection area) represents a surface contribution area likely to contribute recharge to the ground water; this area represents the land area defined as a five year travel time for water. The secondary recharge area (tributary watershed area) is a larger area that may contribute recharge or overland runoff to the wells' aquifer. The Wellhead Protection Area, including both sub-areas, are identified in both the Village and Town. However, more of the primary recharge area is located in the Village, and most of the secondary recharge area is located in the Town.

The second component of a Wellhead Protection Plan is the identification of potential contaminants and ways in which the potential contamination of the aquifer can be minimized. Typically, a Wellhead Protection Plan includes recommendations that could include restrictions on types and sizes of land uses within the identified WHPAs. The purpose of such restrictions is to protect the public drinking water supply, by limiting or regulating the siting of any potential sources of future contaminants in the recharge area. Such contaminants include septic systems; certain types of agricultural activities or other activities that rely heavily on the use of herbicides and pesticides, such as golf courses; and potential sources of chemical contamination, such as gas stations. Typically, such restrictions are enforced through the Zoning Ordinance.

Another component of a Wellhead Protection Plan could be an identification of best management practices, such as reducing the use of lawn pesticides, within the Wellhead Protection Area. Best management practices can be implemented through an educational program designed to inform residents of the potential risks and best practices. To build upon the work of the Cattaraugus County Health Department, the Town, in cooperation with the Village, should prepare a Wellhead Protection Plan. This plan should identify specific potential contaminants and ways in which contamination of aquifer can be minimized and specific measures that can be taken to reduce possible contamination. These measures should include zoning ordinance regulations, but might also include other measures, such as an educational campaign regarding best management practices. Due to the importance of protecting the municipal water supply, this Plan should be prepared as soon as practicable and regulations should be incorporated into the Town's Zoning Ordinance.

(Town of Allegany Comprehensive Plan, adopted December 29, 2011, at Pages 2-17 – 2-18).

- Allegany has a significant primary aquifer associated with the Allegheny River and some of its tributaries. Less extensive aquifers are associated with Nine Mile Creek and Five Mile Creek. Fresh water is an important asset, and both the municipal water system and private wells ultimately derive their water from the aquifer. These aquifer[s] are a

resource that should be protected. An abundance of fresh water is also a resource that is available to support additional development.

(Town of Allegany Comprehensive Plan, adopted December 29, 2011, at Page 2-46)

- Goal 2: Encourage future development that is respectful of the natural environment and is located on land suitable to support the proposed development.

Allegany has an abundance of natural resources, including streams, wetlands and hillsides. The Town overlays a large aquifer, which is a major asset that should be protected. Whether the water supply is private wells or the Town water system, ultimately groundwater from the aquifers is the primary source of water supply in the Town. Future development should be designed in such a way as to protect these natural resources.

Objectives:

Prohibit development that would adversely affect the aquifers that serve as the water supply for the Town.

To protect the municipal water supply system, prepare a Wellhead Protection Plan that will identify potential contaminants to the public water supply wells and identify ways in which the potential contamination of the aquifer can be minimized. Those recommendations should be codified in the Town's Zoning Ordinance through one or more overlay districts.

(Town of Allegany Comprehensive Plan, adopted December 29, 2011, at Page 3-3).

Accordingly, the Enactment of Local Law 1 of the Year 2024 is consistent with the Town of Allegany Comprehensive Plan, adopted December 29, 2011.

SECTION 4. TEXT OF AMENDMENT TO TOWN OF ALLEGANY ZONING ORDINANCE III

Section 5.27 Aquifer Protection Overlay District (APOD)

A. Intent and Purpose.

The purpose of the Aquifer Protection Overlay District (APOD) is to protect the health and welfare of residents of the Village and Town of Allegany by minimizing the potential for aquifer contamination and aquifer depletion in the Town. The Town of Allegany lies over aquifers

covering the entire Town. These can be divided into two areas described in Subsection B(1). Both provide drinking water and its natural discharge is essential to the maintenance of healthy aquatic and associated terrestrial ecosystems in wetlands, streams and lakes. The Town has determined that a limiting factor on the residential and commercial carrying capacity of Allegany is its capability to provide groundwater in sufficient quality and quantity so that water use by some users does not adversely affect other users. Also, where subsurface disposal systems (septic systems) are used, another limiting carrying capacity factor is the subsurface-ability to accept and dilute wastewater without adversely affecting the quality of groundwater.

B. Applicability

1. The APOD encompasses the entire Town of Allegany, outside of the Village of Allegany, and is divided into two primary subdistricts to protect different types of aquifer conditions, as follows:
 - a. An Allegany Community Core Aquifer (CCA) subdistrict, where groundwater recharge is estimated to reach Community Water System water supply wells in five or fewer years, and A Regional Aquifer (RA) subdistrict, which covers the remainder of the Village and Town. Residential and other water uses within the RA subdistrict are also dependent upon groundwater as the primary source of potable water supply.
 - b. The CCA and RA subdistricts are delineated on the Aquifer Protection Overlay District (APOD) Map adopted as part of this Chapter. From time-to time, additional Community Core Aquifer subdistricts may be delineated within the RA subdistrict.
2. The official APOD District Map is located at the Town offices with the other official zoning maps. Any reduction of this map attached to this chapter is for reference purposes only. The Aquifer Protection Overlay District (APOD) District map and any amendments to it must be reviewed and approved by a hydrogeologist working for the Town prior to adoption by the Town Board.
3. The official APOD District Map shall be used to determine the boundaries of subdistricts within the APOD District. In case of a question or dispute as to the exact location of a boundary on a specific parcel of land by an applicant proposing a land use project, the Town may retain a qualified hydrogeologist at an applicant's expense to make such a determination in the field based upon the criteria in this APOD. An applicant may challenge the Town's determination by retaining a qualified hydrogeologist to make such determination independently based upon these criteria. In the event of such a

challenge, the Town's hydrogeologist shall review the report of the applicant's hydrogeologist at the applicant's expense and shall make the final determination as to the location of a specific boundary or other element of the inquiry. Any such boundary delineation or determination shall not, by itself, affect a change in the APOD District Map. The APOD District Map may only be changed by action of the Town Board.

4. Within the APOD District, all the underlying land use district rules shall remain in effect except as specifically modified by this APOD. In case of a conflict between this APOD and the underlying use regulations, the more restrictive shall control. Nothing in this APOD shall be construed to allow uses that are not permitted by the underlying land use district.
5. With the exception of the prohibition on underground fuel tanks in §5.27.E(1) of the APOD, the regulatory elements of this APOD do not apply to any
 - a. single-family, two-family, or multi-family residential use of land on a single lot containing five or fewer dwelling units, or
 - b. to any home occupation unless such residential use or home occupation includes one of the activities listed in subsection E below.

The APOD does apply to all other subdivisions or uses of land.

6. This APOD shall not apply to farm operations within a county-designated agricultural district created in accordance with NYS Agricultural & Markets Law.
7. The APOD shall not apply to real property owned by the State of New York or real property for which the State of New York has an easement, right of way or similar interest for flood control purposes.
8. Review fees of consultants retained by the Town Board necessary to assist with review of any submittal element relevant to the APOD retained shall be paid by a project applicant.

C. Definitions

For purposes of this APOD, the following definitions shall apply:

Action: A project or physical activity as defined in the SEQRA Regulations of the NYS Department of Environmental Conservation, 6 NYCRR Part 617, including all actions subject to SEQRA that are

covered by this Chapter, as well as subdivision applications and other actions requiring local government approval under SEQR.

Aquifer/Aquifers: A consolidated or unconsolidated geologic formation, group of formations or part of a formation capable of yielding a significant or economically useful amount of groundwater to wells, springs or infiltration galleries.

Aquifer Protection Overlay District (APOD) District Map: The Town's overlay map showing Aquifer Protection Overlay District subdistricts.

Community Core Aquifer (CCA) Subdistrict: The area delineated as the Community Core Aquifer (CCA) subdistrict on the Aquifer Protection Overlay APOD District Map. The CCA delineates the portion of a Community Water System aquifer recharge area within a five-year travel time of public water system wells.

Community Water System: A Public Water System defined by and regulated by the New York State Department of Health, typically understood to serve at least five full-time service connections or regularly serving at least 25 year-round residents.

Conditionally Exempt Small Quantity Generators: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites generating in a month time no more than 100 kg hazardous waste, or 1 kg acute hazardous waste or 100 kg spillage cleanup of acute hazardous waste; and at any time store no more than 1000 kg hazardous waste or 1 kg of acute hazardous waste.

Consumption of Water: The net loss of water from a site or a watershed through local groundwater export to a surface water discharge or through evaporation and transpiration processes caused by human land use activities, including evaporative losses from septic system leaching lines. The definition of Consumption of Water also includes water which must be allocated to dilute subsurface wastewater discharges such that groundwater quality at the downgradient property line of sites is unlikely to exceed 50% of the New York State 6 NYCRR Part 703.5 Groundwater (GA) Water Standard for nitrate.

Discharge: Any intentional or unintentional action or omission resulting in substances or materials entering the waters of the State either directly or by passing through other land, or in any other way resulting in damage to the lands, waters, or natural resources of the State.

Farm Operation: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

Generator of Hazardous Waste: Any person or site whose act or process produces hazardous waste.

Groundwater: Water contained in interconnected pores and fractures in the saturated zone in an aquifer.

Hazardous Substance: Any substance, including any petroleum by-product, which may cause harm to humans or the environment when improperly managed. A complete list of all hazardous substances except for petroleum by-products can be found in 6 NYCRR Part 597.3 Tables 1 and 2 and amendments thereto.

Hazardous Waste: See 6 NYCRR Part 371 and amendments thereto for the identification and listing of hazardous wastes.

Hazardous Waste, Acute: See **Hazardous Substances** definition in this section -Table 1 & 2 designated chemicals with the letter A

Herbicide: Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed, including those substances defined as herbicides pursuant to Environmental Conservation Law § 33-0101 and amendments thereto.

Large Quantity Generator: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites generating in a month time more than 100 kg hazardous waste, or 1 kg acute hazardous waste or 100 kg spillage cleanup of acute hazardous waste; and at any time store more than 1000 kg hazardous waste or 1 kg of acute hazardous waste.

Major Oil Storage Facilities: Facilities with a storage capacity of 400,000 gallons or more of petroleum.

Natural Recharge: The normal rate at which precipitation replenishes groundwater, without interruption or augmentation by human intervention.

Non-point Discharge: Discharges of pollutants not subject to SPDES (State Pollutant Discharge Elimination System) permit requirements.

Pesticide: Any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, including any substances defined as pesticides pursuant to Environmental Conservation Law § 33-0101 et seq. and amendments thereto.

Petroleum: Oil or petroleum of any kind and in any form including but not limited to oil, petroleum fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, and kerosene, as defined in 6 NYCRR Part 613-1.3 and amendments thereto.

Point Source Discharge: Pollutants discharged from a point source as defined in Environmental Conservation Law §17-0105 and amendments thereto.

Pollutant: Any material or byproduct determined or suspected to be hazardous to human health or the environment.

Radioactive Material: Any material that emits radiation.

Regional Aquifer (RA) Subdistrict: The area delineated as the Regional Aquifer (RA) subdistrict on the APOD District Map. As defined or approved by a hydrogeologist working for the Town, the RA subdistrict consists of all areas on the APOD District Map not included in the CCA subdistrict.

Small Quantity Generator: As defined by the Resource Conservation and Recovery Act and amendments thereto, sites that do not qualify as Conditionally Exempt Small Quantity Generators and that generate and store less than 1000 kilograms per month of a listed and /or characteristic hazardous wastes, and that generate or store less than 1 kilogram per month of acutely hazardous waste.

Solid Waste: Generally refers to all putrescible and non-putrescible materials or substances, except domestic sewage, sewage treated through a publicly owned treatment works, or irrigation return flows, that is discarded or rejected as being spent or otherwise worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, and discarded automobiles, as defined in 6 NYCRR Part 360.2(a)(1) and amendments thereto.

State Pollutant Discharge Elimination System ("SPDES"): The system established pursuant to Article 17 Title 8 of Environmental Conservation Law for issuance of permits authorizing discharges to the waters of the state of New York.

Wastewater: Aqueous-carried solid or hazardous waste.

Watershed: All land contributing surface runoff and groundwater flow to the flow of a particular stream.

Water Supply: The groundwater resources of the Town of Allegany, or the groundwater resources used for a particular well or community water system.

Well: Any present or future artificial excavation used as a source of public or private water supply which derives water from the interstices of the rocks or soils which it penetrates including bored wells, drilled wells, driven wells, infiltration galleries, and trenches with perforated piping, but excluding ditches or tunnels, used to convey groundwater to the surface.

D. General Provisions for Groundwater Protection

1. **Non-Degradation Standard:** No use shall be allowed which can be calculated, shown, or anticipated to degrade the quality of groundwater in a manner that poses a potential danger to public health or safety and no permits or approvals shall be issued for any use which violates this standard. Compliance with applicable standards, requirements, and permit conditions imposed by federal, state, or county agencies shall be deemed to constitute compliance with this standard. Based on reasonable cause or concern, the Town may require a property owner or potentially responsible party to collect data clarifying whether the non-degradation standard has been breached or has the potential to be breached.
2. The manufacture, use, storage, or discharge of any products, materials, or by-products subject to these regulations, such as wastewater, solid waste, hazardous substances, or any pollutant, must conform to the requirements of these regulations.
3. In addition to the list of Statewide Type I Actions contained in 6 NYCRR 617.4(b), all proposed actions resulting in discharges calculated to exceed groundwater effluent standards provided in 6 NYCRR Part 703.6(e) and amendments thereto, shall be designated as Type I Actions under the Implementing Regulations of the State Environmental Quality Review Act (6 NYCRR Part 617), unless the action is listed as a Type II action under such regulations.
4. Projects where proposed site Groundwater Consumption exceeds site Natural Recharge, as defined in Appendices B and C, or where more than 5,000 gallons daily are withdrawn from wells, see Appendix A, must review through SEQRA how such water budget and any associated Impacts on groundwater quality will be mitigated. Mitigation measures may include identifying compensatory recharge to permanently prevent adverse impacts to water supply on adjoining and downgradient land. Such compensatory recharge may be located either upgradient or downgradient of the project. Where the project is located adjacent to a wetland, watercourse, parkland, or other land that is permanently protected from development, the recharge benefit of such adjacent protected land may be counted toward the required mitigation of the impact of the project, provided that such recharge capacity is not claimed in connection with another project.

E. Prohibitions, Restrictions, and Permit Requirements for Aquifer Management

In accordance with Article IX of the Town of Allegany Zoning Ordinance, "Special Use Permits and Site Plan Review," the Planning Board shall review and act upon Special Permit applications within the Town of Allegany. If the uses listed below are regulated by any state or federal agency, the definitions and regulations of such uses contained in applicable state or federal laws and regulations shall apply.

1. Prohibited Uses throughout the Town of Allegany

- a. Because NYS regulates only fuel tanks with capacity over 1,100 gallons, installation of a new or replacement underground fuel tank or tanks, whose combined capacity is less than 1,100 gallons is prohibited. This applies to all uses throughout the Town, including single-family, two-family, and multi-family dwellings; and
- b. Land application of septage, sludge, or human excreta, including land application facilities defined in 6 NYCRR Part 360-2. This prohibition shall not apply to land application of treated wastewater for irrigation when duly approved by county, state, or federal agencies with regulatory jurisdiction.

2. Prohibited uses within the CCA subdistricts only:

- a. Municipal, private, and construction and demolition landfills as defined in 6 NYCRR Part 360 and 6 NYCRR Part 360-5;
- b. Disposal, by burial, of any hazardous waste, as defined in 6 NYCRR Part 371;
- c. Large Quantity Generators of Hazardous Waste;
- d. Junkyards and automobile cemeteries;
- e. Gas stations and Major Oil Storage Facilities; and
- f. On-site dry cleaning.

3. Special Use Permits within the Community Core Aquifer (CCA) subdistrict. The following uses, if permitted in the underlying land use district, shall require the issuance of a Special Use Permit within the CCA subdistrict:

- a. Photo labs;
- b. Auto repair facilities and truck terminals, including engine repair and machine shops;
- c. Furniture stripper/painter, metal works, wood preservers;
- d. Printers and the use of printing presses;

- e. Conditionally Exempt or Small Quantity Generators of Hazardous Waste;
 - f. Solid waste management facilities not involving burial, including incinerators, composting facilities, liquid storage, regulated medical waste, transfer stations, recyclables handling & recovery facilities, waste tire storage facilities, used oil, C&D processing facilities, each as defined in 6 NYCRR Part 360;
 - g. Salt storage facilities;
 - h. Septic systems where daily discharge exceeds 20% of the project site aquifer recharge rate as defined in Appendix B, or use of individual residential septic systems where average density is less than 1 acre per septic system;
 - i. Cemeteries, including pet cemeteries;
 - j. Veterinary hospitals and offices;
 - k. Funeral parlors engaging in embalming; and
 - l. Storage or disposal of manure, fertilizers, pesticides/herbicides. No special permit shall be required for storage of less than 500 pounds or where such storage or disposal is conducted in connection with a farm operation.
4. Special Conditions for proposed uses within the CCA subdistricts requiring a Special Use Permit:
- a. Storage of chloride salts is prohibited except in structures designed to minimize contact with precipitation and constructed on low permeability pads designed to control seepage and runoff.
 - b. Upon request by the Town, generators of Hazardous Waste shall provide the Town with copies of all applicable permits provided by State and/or Federal regulators and copies of all annual, incident, and remediation-related reports.
 - c. Embalming byproducts may not be discharged to a septic system;
 - d. Projects requiring special use permits responsive to Section 5.27E(3)(h) must reduce septic loading density or demonstrate compensatory mitigation, including providing supplemental wastewater treatment before discharges pass to groundwater or demonstrating the presence of other compensatory dilution from adjoining land as referenced in Section 5.27.0(4);

- e. The Town may require additional monitoring and reporting for any chemicals of concern or sustainable groundwater availability.
5. Special Permits within the RA subdistrict. The following uses, if permitted in the underlying land use district, shall require the issuance of a Special Use Permit within the RA:
- a. Gasoline service stations;
 - b. Major Oil Storage Facilities;
 - c. Junkyards and automobile cemeteries;
 - d. Salt storage facilities;
 - e. The three categories of Conditionally Exempt, Small Quantity, or Large Quantity Generators of Hazardous Waste;
 - f. Disposal of any hazardous waste, as defined in 6 NYCRR Part 371, by burial;
 - g. Cemeteries, including pet cemeteries;
 - h. Veterinary hospitals and offices;
 - i. Funeral parlors engaging in embalming; and
 - j. Storage or disposal of manure, fertilizers, pesticides/herbicides. No special permit shall be required for storage of less than 500 pounds or where such storage or disposal is conducted in connection with a farm operation.
6. Special Conditions for proposed uses within the RA subdistricts requiring a Special Use Permit:
- a. Upon request by the Town, gasoline service station operators shall provide the Town with copies of all applicable permits provided by State and/or Federal regulators and copies of all annual, incident, and remediation-related reports;
 - b. Junkyard operators shall drain fuels, lubricants, and coolants from all cars stored on site to properly permitted above-ground holding tanks, and upon request by the Town, provide to the Town copies of all applicable permits provided by State

and/or Federal regulators and copies of all annual and incident reports, provide the Town with an annual summary of numbers of vehicles on site and total gallons of various classes of fluids drained from vehicles and disposal manifests or other documentation of disposition of such fluids;

- c. Storage of chloride salts, coal, and/or cinders is prohibited except in structures designed to minimize contact with precipitation and constructed on low permeability pads designed to control seepage and runoff;
- d. Upon request by the Town, generators of Hazardous Waste shall provide the Town with copies of all applicable permits provided by State and Federal regulators and copies of all annual, incident, and remediation-related reports; and
- e. The Town may require additional monitoring and reporting for any chemicals of concern or sustainable groundwater availability.

7. Application Requirements for Special Use Permits; In addition to the Special Use Permit application requirements set forth in Article IX of the Town of Allegany zoning ordinance, applicants proposing actions listed in subsections 3 and 5 above shall identify the following as part of their applications:

- a. The source of water to be used;
- b. The quantity of water required;
- c. Water use minimization measures to be implemented;
- d. Water recycling measures to be implemented;
- e. Wastewater discharge measures;
- f. Grading and/or storm water control measures to enhance on-site recharge of surface water;
- g. Point Source or Non-Point Discharges;
- h. A certified statement indicating that only waste characteristic of domestic waste will be released to any septic systems;

- i. A complete list of any Hazardous Substances to be used on site along with quantity to be used and stored on site; and
- j. A description of Hazardous Substance storage or handling facilities and procedures.

F. Reporting of Discharges

Any person or organization responsible for any discharge of a Hazardous Substance, Solid Waste, Hazardous Waste, petroleum product, or radioactive material shall notify the Town Clerk of such discharge within 24 hours of the time of discovery of the discharge. This notification does not alter other applicable reporting requirements under existing law and applies to all uses, whether conforming or non-conforming in any respect.

G. Non-conforming Uses, Structures, and Lots

See Article VI of in the Town of Allegany Zoning Ordinance. For any non-conformity which requires a Special Use Permit to expand or change, all requirements of this §5.27 APOD shall apply to such expansion or change.

APPENDIX A Well Testing

For any other projects requiring withdrawals of more than 5,000 daily gallons of water from wells, and where onsite recharge as defined in Appendix B herein is less than the proposed Consumption of Water as defined in Appendix C, a minimum 24-hour flow test of proposed wells is required Including impact analysis Including water level monitoring in wells on abutting parcels.

APPENDIX B Determination of a Parcel's Natural Rate of Aquifer Recharge

The natural recharge rate for a parcel shall be determined by Identifying the soil types on the property, classifying them by hydrologic soil groups (A through D, ND and C/D), and applying a recharge rate of 18.2 inches/year for A and ND soils, 13.3 inches/year for B soils, 6.8 inches/year for C and CID soils, and 3.8 inches/year for D soils, and multiplying the recharge rate(s) by the number of acres in the parcel for each soil group.

APPENDIX C Consumption of Water

The following table establishes the method to calculate projected site or watershed consumption of water, as defined in §5.27C. Consumption may be considered to be zero where the source of water used on a proposed site is the Allegany River.

<u>Use</u>	<u>Gallons per day</u>	<u>Multiplied by</u>	<u>Consumption/day</u>
------------	------------------------	----------------------	------------------------

		<u>Dilution factor</u>	
Irrigated Lands (non-agricultural)	Irrigated Acres x 4,000 ¹	x 1	= _____
Uses with Surface Discharge of Wastewater if Source water if from surface water	Calculated Demand	x .2	= _____
Uses with Surface Discharge of Wastewater if Source water is from On-Site Groundwater Wells	Calculated Demand	x 1	= _____
Residential Uses with Conventional Subsurface Wastewater Discharge ²	70 gal/capita	x 8	= _____
Nonresidential Uses with Conventional Subsurface Wastewater Discharge ³	Daily Use	x 8	= _____

SECTION 5. SEVERABILITY

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance shall be adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 6. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption by the Town Board of the Town of Allegany and filing with the Secretary of State.

¹ Applicable for vegetation requiring 1 inch/week irrigation. May be adjusted for vegetation with other water requirements.

² Calculate use per NYSDEC intermediate wastewater disposal guide. Discharge must not exceed NYSDEC Title 10, Part 703 effluent limits.

³ where projects meet more than one condition listed on the table above, the calculation resulting in the greatest Consumption value must be used.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the ~~(County)(City)(Town)(Village)~~ of Allegany was duly passed by the Town Board on February 13th 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

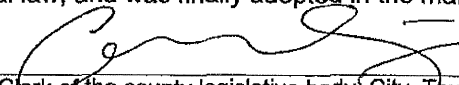
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 3/1/2024

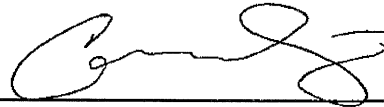
(Seal)

Certification of Town Clerk

STATE OF NEW YORK
COUNTY OF CATTARAUGUS

I, the undersigned, hereby certify that I have compared the foregoing local law duly adopted by the Town Board of The Town of Allegany on the 13th day of February, 2024 with the original thereof now on file in my office, and the same is a true and correct copy of said resolution and of the whole thereof.

Dated: March 1, 2024



Grace C. Straub, Allegany Town Clerk

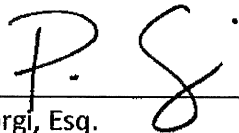
seal

Certification of Town Attorney

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Dated: March 1, 2024

A handwritten signature in black ink, consisting of the letters 'P' and 'S' with a period, written in a cursive style.

Peter J. Sorgi, Esq.
Town Attorney, Town of Allegany, New York