

Local Law Filing

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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

of **POESTENKILL**

Local Law No.

of the year **2018**

A local law **REGULATING ACCESS TO AND USE OF THE BARBERVILLE NATURAL RESOURCE AREA WITHIN THE TOWN OF POESTENKILL**
(Insert Title)

Be it enacted by the

Town Board

of the

(Name of Legislative Body)

County
City
Town
Village

of **POESTENKILL**

as follows:

Section 1. Name of Local Law

This law shall be known as "Barberville Natural Resource Area Law."

Section 2. Authority and Purpose.

Barberville Falls and the surrounding area (collectively referred to hereinafter as "the Barberville Natural Resource Area") is a unique natural landmark situated within the heart of the Town of Poestenkill ("the Town") and is a part of the Town's heritage and was duly acquired by the Town from the Nature Conservancy in 2018. The Barberville Falls is approximately 90 feet in height carrying the waters of the Poesten Kill from the upper escarpment of the Rensselaer Plateau to the Poestenkill Hamlet. The Poesten Kill drains approximately 35 square miles of the Plateau and not only provides important water resources but also a habitat for fish and other aquatic life. The Barberville Natural Resource Area includes discrete ecological communities while also offering to the public a variety of recreational opportunities including hiking, bird watching, nature walks, fishing, and photography on its 138 acres. It is the purpose and intent of this local law that the Town provide for responsible stewardship of this unique natural resource while also allowing its vistas and recreational opportunities to be accessed and enjoyed by the public. As part of such purpose, the Town also hereby establishes rules, restrictions and conditions for public access to and use of the Barberville Natural Resource Area to the end of facilitating, to the extent possible and practicable, a safe and enjoyable experience for all visitors to the Barberville Natural Resource Area and the preservation of its resources in their natural pristine condition and to ensure that private land is not trespassed on nor used for purposes not approved by the owner of such private land.

09/13/18

Section 3. Public Notice.

Whereas the Barberville Natural Resource Area is a natural and potentially dangerous open space area, this local law and the signage hereby authorized and if and when posted shall serve as a warning to the visiting public that the property contains steep slopes, slippery surfaces and dangerous cliffs. Children shall at all times be under the supervision and guardianship of an adult while on the property. All persons enter the property at their own risk.

Section 4. Permitted Uses.

1. From the day after Labor Day through two (2) days before Memorial Day persons are invited to visit the Barberville Natural Resource Area for the purposes of bird watching, hiking, fishing, geocaching, snowshoeing, and photography and such other uses as the Town Board shall name not inconsistent with the purposes and intent of this local law, from sunrise until sunset.
2. Every person intending to park in designated parking areas as provided for in subdivision 11 of Section 5 of this local law shall first obtain and display in the window of their vehicle a permit obtainable from the Town Clerk's office. No person shall park on any private property without the permission of the land owner. Illegally parked vehicles may be ticketed, towed or immobilized by the placement of a wheel boot on their vehicle. The fee for having such boot removed shall be \$50 payable to the Town of Poestenkill by cash or check. Any towing fees are the sole obligation of the vehicle owner and shall be payable directly to the towing service provider.
3. The town board by resolution may establish one week from October 1 through December 20 for hunting provided that any such hunting is undertaken consistent with State law. Such use shall be by permit only issued to town residents following a public lottery. The number of permits shall be limited to 5 (five) for the week. Such hunting season shall be posted not less than 30 (thirty) days prior to commencement on the town website and at entries to the property and such other locations as determined by the Town Board. The Town shall use reasonable efforts to notify adjacent and nearby property owners of the proposed resolution.
4. In addition to the uses expressly permitted by this Section 4 and subdivision 13 of Section 5 of this local law, the Town Board may, by Resolution, authorize any additional use or uses not inconsistent with the purpose and intent of this local law.

Section 5. Access and Use Restrictions and Prohibitions.

1. No person shall enter the Barberville Natural Resource Area from two days before Memorial Day through Labor Day without first obtaining a permit from the Town Clerk which shall specify the purpose for the entry. Permits will be issued for the limited purposes of scientific research and park cleanups. The permit application shall include

the identity, address and contact information for the person responsible for the permit and how many people are proposed to be included in the permit and identities, addresses and contact information. The permit shall also identify any vehicles to be parked in the Barberville Natural Resource Area parking areas for the specified activity.

2. Alcohol: No person shall possess any alcoholic drink while on Barberville Natural Resource Area property.
3. Glass: No person shall possess any glass container or drinking glass while on Barberville Natural Resource Area property.
4. Swimming: No person shall at any time swim or wade in that portion of the Poesten Kill which passes through the Barberville Natural Resource Area.
5. No person shall wander off designated trails or climb on the face of the falls.
6. Camp Fires: No person shall start a campfire or other fire within the Barberville Natural Resource Area for any purpose at any time.
7. Time of Permissible Occupancy: No person shall remain on the Barberville Natural Resource Area property later than sunset or earlier than sunrise.
8. Noise: No person shall create unnecessary noise while on the Barberville Natural Resource Area except to call emergency personnel or to find a missing person.
9. No recreational hunting is permitted other than that authorized in Section 4, Subdivision 3.
10. No person shall enter private property from the Barberville Natural Resource Area at any time other than with the permission of the owner of such private land. In this regard, it is noted that the area extending from the center of the bed of the Poesten Kill to the west edge of the Barberville Falls proper as well as the adjacent land from under the bridge to the power house is privately owned property which is not included in the Barberville Natural Resource Area. Accordingly, entry upon such private property constitutes trespass and may be prosecuted as such by the property owner.
11. Parking: No person shall park any vehicle on Barberville Natural Resource Area property other than in designated parking areas. In addition, there shall at no time of the year and for whatever purpose be any parking of vehicles upon the premises of the Barberville Natural Resource Area without first obtaining a parking permit from the Town Clerk, which permit shall be prominently displayed on the dashboard of any such parked vehicle.
12. No pets or animals of any kind shall be let loose upon the premises of the Barberville Natural Resource Area. Dogs must be on a leash and under the control of the owner. Any fecal waste shall be removed from the property.
13. No motorized vehicle shall enter the Barberville Natural Resource Area except those under the direct supervision of the Town of Poestenkill for administrative and maintenance purposes.

Section 6. Violations and Penalties.

1. Any person who violates the provisions of this local law is guilty of a violation punishable by a fine of up to Two Hundred Fifty Dollars (\$250.00).
2. Any unauthorized or prohibited access, occupancy or use of the Barberville Natural Resource Area or its resources shall constitute both civil and criminal trespass and may be prosecuted as either or both.
3. Any person who requires the assistance of a first responder, police or fire services, or town resources by virtue of a violation of this Article shall be strictly liable for the actual costs associated with such assistance.

Section 7. Resource Area Review

The Conservation Advisory Council as established by Article I of Chapter 16 of the Town Code shall review the use of the Barberville Natural Resource area to ensure that this article is meeting the goals set out by its provisions and make recommendations from time to time to the Town Board on possible changes to the article. In addition, the Conservation Advisory Council is authorized to accept donations on behalf of the town for the care and management of the property and may apply for grants both public and private for the same.

Section 8. Primacy

Any plan, action or undertaking by any department of the town must be consistent with this local law.

Section 9. Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.