

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2009**

No. 31

Introduced by Council Members Gennaro, Brewer, Fidler, Gentile, Gonzalez, James, Koppell, Liu, Nelson, Sanders Jr., Weprin, Gerson, White Jr., Martinez, DeBlasio, Vann, Felder, Mitchell, Eugene, Recchia Jr., Vallone Jr., Crowley, Garodnick, Lappin and Katz.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the creation of a comprehensive wetlands protection strategy for New York City.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that wetlands serve a variety of critical functions important to the residents of New York City. These functions include filtration of pollutants, surface water storage, flood control, shoreline stabilization and prevention of erosion, stream flow maintenance including maintaining the aquatic habitat and opportunities for aesthetic appreciation of streams, groundwater recharge, sediment removal and nutrient recycling, promoting aquatic species productivity, biodiversity and provision of plant and wildlife habitat and enhancing recreational opportunities. Draining and filling wetlands impairs their functions and destroys native habitats. New York City has lost the majority of its wetlands to development, over time. The Council finds that to the maximum extent possible in consideration of competing land uses, preserving the remaining wetlands, creating new wetlands and undertaking actions designed to improve the functions of wetlands to the maximum extent

possible is in the best interests of the City, and offers a way to respond to the challenges that will be presented by climate change and rising sea levels.

The Council further finds that the existing law leaves gaps in wetlands protection and that it is necessary for the City to develop and implement a comprehensive wetlands protection strategy.

The Council further finds that existing maps of wetlands in the City are outdated and incomplete. For all of these reasons, the City must take steps to conduct a preliminary satellite or aerial imagery survey that will provide an overview of the remaining wetlands in the City, and provide a basis to develop and implement a wetlands strategy that will address challenges or obstacles to wetlands protection.

§2. Chapter 5 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-528 to read as follows:

§24-528 New York city comprehensive wetlands study and protection strategy. a.

Definitions.

1. *“City” shall mean the geographic area constituting the city of New York, including wetlands, shorelines and underwater lands.*

2. *“Office” shall mean the mayor’s office of long-term planning and sustainability.*

3. *“Wetlands” shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.*

b. Preliminary satellite or aerial imagery survey. No later than September 1, 2010, the office shall submit to the mayor and the speaker of the council a preliminary survey of likely

wetland areas based upon satellite or aerial imagery. The preliminary satellite or aerial imagery survey shall be for the purpose of indicating the overall size and location of remaining wetlands within the city and therefore to inform the development of an overall strategy for wetlands in the city.

c. *Development of a comprehensive wetlands strategy.* The office shall complete a preliminary wetlands protection strategy the overall goals of which shall be to (1) conserve, protect, enhance, stabilize, restore and expand wetlands and associated buffer areas in the city; (2) avoid and minimize wetlands losses and achieve no net loss of wetlands in the city; (3) standardize and improve the management of wetlands and associated buffer areas and (4) balance the needs for wetlands protection with other, competing land uses that are in the public interest, such as the construction of schools or affordable housing. Such strategy shall consider (1) the ecological, hydrological, economic, aesthetic and habitat functions of wetlands including, but not limited to future protection from storm surges and other effects of rising sea levels; (2) the current condition and protections afforded wetlands in the city, including wetlands smaller than 12.4 acres in size; and (3) the wetlands policies, laws, rules and regulations that have been adopted by other municipalities in New York state.

d. (1) No later than December 31, 2011, the office shall submit a preliminary comprehensive wetlands protection strategy that meets the requirements of this subdivision to the mayor, the speaker of the council and the public for review and comment. Access to the public shall include posting such preliminary strategy on the city's website and such other measures as the office deems appropriate to increase notice.

(2) No later than March 1, 2012, the office shall submit a final comprehensive wetlands protection strategy that meets the requirements of this subdivision to the mayor, the speaker of

the council and the public. Submission to the public may include posting such final strategy on the city's website and such other measures as the office deems appropriate to increase notice.

(3) The comprehensive wetlands protection strategy shall include, but not be limited to, the following:

(i) appropriate legal requirements, management mechanisms, funding mechanisms, enforcement mechanisms and incentives to conserve, protect, enhance, restore, stabilize and expand wetlands and associated buffer areas in the city, whether publicly or privately owned;

(ii) appropriate legal requirements, management mechanisms, funding mechanisms, enforcement mechanisms and incentives regarding management of wetlands in the city by public and private owners to ensure their consistency and best practices;

(iii) land acquisition and land use planning practices and opportunities to provide for wetlands retreat;

(iv) strategies for adaptation to sea level rise that involve wetlands to the extent not provided for in any other planning or management initiatives undertaken by or on behalf of the city;

(v) opportunities to improve the implementation of wetlands mitigation and creation activities;

(vi) a protocol for coordination with appropriate federal, state and city governmental entities that have jurisdiction over or other property interest in wetlands or associated buffer areas including, but not limited to, coordination in the development of a comprehensive list of wetland mitigation opportunities and notification procedures regarding proposed development projects that may adversely impact wetlands or associated buffer areas;

(vii) reporting mechanisms for wetlands indicators; and

(viii) a public education program to increase awareness about the ecological, economic, aesthetic and other values of wetlands and their associated buffer areas, which shall include information presented on the city's website and such other means as the office deems appropriate.

(4) The comprehensive wetlands protection strategy shall include a schedule and milestones for implementing the strategy and achieving its goals. .

(5) To the extent that any element of the comprehensive wetlands protection strategy is provided for in any other planning or management initiative undertaken by or on behalf of the city, such element may be incorporated by reference.

e. The comprehensive wetlands protection strategy developed pursuant to this section shall be reviewed and revised as necessary to achieve its goals, the first such review to be undertaken within three years and thereafter no less often than every four years. No later than April 22, 2015 and no later than every fourth year thereafter, the commissioner shall submit a report to the mayor and the speaker of the council that provides an update on the comprehensive wetlands protection strategy developed pursuant to this section which shall include, but not be limited to:

(1) the implementation status of the measures included in such strategy, as it may have been revised pursuant to this subdivision; and

(2) specific progress towards each of the strategy's goals.

§3. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York,
passed by the Council onMay 6, 2009..... and approved by the Mayor
on ...May 26, 2009.....

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local law
(Local Law 31 of 2009, Council Int. No. 506-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on May 6, 2009: 51 for, 0
against, 0 not voting.

Was signed by the Mayor on May 26, 2009

Was returned to the City Clerk on May 26, 2009

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel