

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

December 18, 2019

Eugene R Barnosky
Lamb & Barnosky LLP
534 Broadhollow Road, Suite 210
Melville NY 11747-9034

**RE: Village of Nissequogue, Local Law 2 & 3 2019, filed on December 6
2019**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



Department
of State

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 Nissequogue

Local Law No. 3 of the year 2019

A local law amending Sections 64-4, 64-5 and 93-5 of the Code of the Village of Nissequogue

(Insert Title)

to amend and clarify the requirements for permits and approvals to construct or modify

erosion protection structures.

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

County City Town Village

(Select one:)

of Nissequogue as follows:

SEE ATTACHED

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

(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. 3 of 2019 of the ~~(County)(City)(Town)(Village)~~ of Nissequoque was duly passed by the Board of Trustees on November 19, 2019, 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.~~

* 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.

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

Date: *November 26, 2019*

(Seal)

Local Law No. 3 of the year 2019

Village of Nissequogue, County of Suffolk

A local law amending Sections 64-4, 64-5 and 93-5 of the Code of the Village of Nissequogue to amend and clarify the requirements for permits and approvals to construct or modify erosion protection structures.

Be it enacted by the Board of Trustees of the Village of Nissequogue as follows:

Section 1. Amendment to § 64-4 of the Code of the Village of Nissequogue

Section 64-4 of the Code of the Village of Nissequogue, "Permit and approval required" is hereby amended to read as follows:

"The following procedures must be followed in connection with the construction, reconstruction or modification of erosion protection structures:

- A. All such construction, reconstruction or modification requires a building permit. In addition to the applicable requirements of Chapter 51, applications for a building permit for the construction, reconstruction or modification of an erosion protection structure must meet the requirements of this Chapter 64, including, but not limited to, the following:
 1. To obtain a building permit, an applicant must submit a design plan that is approved by the Village Engineer and the Building Inspector.
 - (a) A design plan must be provided with engineering data to indicate reasonable likelihood of success in long-term erosion control for a minimum of thirty (30) years.
 - (b) The design plan must include a long-term maintenance program, including specifications for normal maintenance of degradable materials and periodic replacement of removal material.
 2. The application must include a current survey of the premises, dated within six (6) month of the date of the application, which survey must clearly depict the existing shoreline conditions and topography of the subject property, as well as the existing shoreline conditions and topography of neighboring properties within 100 feet of the subject property.
 3. The application must: (a) set forth the impacts of the construction, reconstruction or modification on neighboring properties and existing or proposed structures on neighboring sites; (b) demonstrate a coherent interrelationship between the construction, reconstruction or modification and any proposed or existing structures on neighboring sites; and (c) demonstrate all efforts to minimize effects on neighboring sites.

4. The application must set forth evidence deemed sufficient to the Village Engineer and the Building Inspector that the Applicant's engineer who designs the erosion protection structure or the modification to or reconstruction of an erosion protection structure ("Applicant's Professional") is a New York State licensed engineer and has the requisite experience in coastal erosion control and designing erosion protection structures.
 5. The application must include a certification from the Applicant's Professional that it/he/she has:
 - (a) Reviewed and approved shop drawings;
 - (b) Obtained and approved samples of all fill to be utilized;
 - (c) Made a field visit to the sources of all material to be utilized; and
 - (d) Approved the stones, vegetation and other materials to be utilized.
 6. The application must include a certification from the Applicant's Professional that the materials to be utilized meet the requirements of the plans, details and specifications.
- B. A building permit will be issued only with the following conditions:
1. the Applicant's Professional visits the work site at certain defined stages of the construction, reconstruction or modification and at certain time intervals, such stages and intervals to be set forth by the Building Inspector in the building permit;
 2. the Applicant's Professional must review the size and species of plantings **before** their installation to confirm that the plantings are consistent with the plans, details and specifications that were submitted with the application;
 3. following each visit, the Applicant's Professional submits a certification to the Building Inspector stating that: (a) the materials used to date and the materials to be utilized meet the requirements of the plans, details and specifications that were submitted with the application; and (b) that all work has been done in accordance with all plans, details and specifications that were submitted with the application; and
 4. If any of these certifications are not submitted, the Building Inspector may issue a stop-work order or impose penalties pursuant to § 64-5.
- C. The construction, reconstruction or modification of an erosion protection structure requires a Certificate of Compliance. In addition to the applicable requirements of Chapter 51, a Certificate of Compliance will not be issued for the construction, reconstruction or modification of an erosion protection structure unless the requirements of this Chapter 64 are met, including, but not limited to, the following:
1. To obtain a Certificate of Compliance, the applicant must submit a certified "as built" survey.

2. Prior to the issuance of a Certificate of Compliance, there must be a site meeting with the Village Engineer and/or Building Inspector and the Applicant's Professional to review and inspect the final construction, reconstruction or modification.
 3. Prior to the issuance of a Certificate of Compliance, the Applicant's Professional must submit a certification to the Building Inspector that the constructed, reconstructed or modified erosion protection structure and all materials utilized during the work conformed to the plans, details and specifications that were submitted with the application.
- D. The Certificate of Compliance will be issued with the following conditions:
1. The Certificate of Compliance must set forth the long-term maintenance program.
 2. On a yearly basis, the owner of any property with an erosion protection structure constructed, reconstructed or modified pursuant to this Chapter (including an erosion protection structure constructed, reconstructed or modified by any prior owner of the property) must submit evidence deemed sufficient to the Village Engineer and/or the Building Inspector that the owner has complied with the long term maintenance program. This requirement will be set forth in the Certificate of Compliance."

Section 2. Amendment to § 64-5 of the Code of the Village of Nissequogue

Section 64-5 of the Code of the Village of Nissequogue, "Penalties for offenses" is hereby amended to read as follows:

"As the damage to private and public properties adjacent to an improperly designed or constructed erosion protection structure is potentially great, the construction, reconstruction or modification of such a structure without a permit issued under, or otherwise in violation of, the foregoing standards and procedures shall be penalized as follows:

- A. By removal of the structure and restoration of the area to its previous state;
- B. By a fine of two hundred fifty dollars (\$250.00) per day where removal and restoration is not required; and
- C. Where a fine has been imposed, by the alteration and modification of the unpermitted structure to conform with all standards and requirements set forth in this chapter."

Section 3. Amendment to § 93-5 of the Code of the Village of Nissequogue

Section 93-5 of the Code of the Village of Nissequogue, "Activities requiring site plan review; approval required" is hereby amended to add a new subparagraph (8) and to read in its entirety as follows:

“A. The following proposed buildings and structures shall require site plan approval in accordance with this chapter, and it shall be prohibited for any person to erect any such buildings or structures without such approval:

- (1) New homes;
- (2) Swimming pools;
- (3) Relocation of an existing driveway or construction of a new driveway;
- (4) Berms;
- (5) Expansion of structures over 200 square feet;
- (6) Creation of ponds, tennis courts, stables, paddocks; entranceways, sheds in excess of 300 square feet, gazebos, beach stairs, retaining walls, garages and decks in excess of 200 square feet;
- (7) Restoration of landscaping in buffer zone;
- (8) Construction, reconstruction or modification of erosion protection structures.”

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment will not affect, impair, or invalidate the remainder of this local law, but will 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 will be rendered.

Section 5. Effective date

This local law will take effect immediately upon filing with the Secretary of State.