

**Local Law Filing**

NEW YORK STATE DEPARTMENT OF STATE  
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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.

Village of FISHKILL

Bill H-2013

Local Law No. \_\_\_\_\_ of the year 2013

A local law To extend by three months the moratorium on the demolition of and the issuance of demolition permits for structures located within the Village of Fishkill Historic Preservation Overlay Zone.

(Insert Title)

Be it enacted by the BOARD OF TRUSTEES of the  
(Name of Legislative Body)

Village of FISHKILL as follows:

**Section 1. Legislative Intent.**

This Village Board, in order to consider, formulate and amend its local laws and regulations, to provide for the protection of the Village's historic structures, the public health, and the local quality of life and to reduce the potential adverse impact that demolition under the existing Village Code will have on the historic character of the Village, finds it in the public interest to enact this local law.

This local law extends the current moratorium on the application for, consideration of, approval of and the issuance of demolition permits for structures located within the Village of Fishkill Historic Preservation Overlay Zone or listed on or eligible for listing on the State or National Register of Historic Places in the Village of Fishkill for an additional three months in order to give the Village time to complete revisions to its demolition regulations.

**Section 2. Legislative Findings.**

The Village Board of the Village of Fishkill finds:

That, the Village of Fishkill was a significant crossroads in the overland transportation network in the 18<sup>th</sup> and 19<sup>th</sup> centuries, as the Kings Highway, connecting Albany to New York City, intersected in Fishkill with the overland route from New England to the Hudson River; and

That, the Village of Fishkill's historical significance has provided the Village of Fishkill with many historic structures and areas that have become part of the character and quality of life in the Village; and

That, significant historic structures in the Village include; the Trinity Church, organized in 1756 and built in 1760; the First Dutch Reformed Church, organized in 1716 and built in 1731; and Van Wyck Hall, originally built as a theater; and

That, the Village Code as currently drafted permits demolition of historic structures without a clear process or standards adequate to ensure that the historic character of the Village is preserved and not permanently lost; and

That, a moratorium for an additional three months is necessary to prevent ill-advised demolitions and is in the public interest of the present and future residents of the Village of Fishkill whose well-being and quality of life may be prejudiced by the demolition of historic structures under the existing Village Code; and

That, a moratorium is a Type II Action under the State Environmental Quality Review Act regulations and is not subject to environmental review.

**Section 3. Moratorium.**

A. A moratorium on the issuance of demolition permits under Chapter 54 of the Code of the Village of Fishkill for structures located within the Village of Fishkill Historic Preservation Overlay Zone or listed on or eligible for listing on the State or National Register of Historic Places is hereby imposed from the effective date of this local law for a period of three months to extend until January 8, 2014.

B. No application for a demolition permit under Chapter 54 of the Code of the Village of Fishkill for any structure described in subsection "A" above shall be submitted to or accepted by the Code Enforcement Officer, the Building Inspector or the Village Board of Trustees for the term of this moratorium.

C. The Village Board of Trustees shall not consider, process or approve any application for a demolition permit for any structure described in subsection "A" above, including any such application currently pending before the Village Board of Trustees, for the term of the moratorium.

E. No demolition permit shall be issued by the Village Board of Trustees under Chapter 54 of the Code of the Village of Fishkill for the demolition of any structure described in subsection "A" above, for the term of this moratorium.

F. Neither the Zoning Board of Appeals nor the Code Enforcement Officer shall provide an interpretation of Chapter 54 of the Code of the Village of Fishkill in relation to any proposed demolition of any structure described in subsection "A" above for the term of this moratorium.

**Section 4. Hardship Waiver.**

A. The Village Board of Trustees may waive the provisions of this moratorium upon the application of an owner of property upon which demolition would have proceeded under Chapter 54 of the Code of the Village of Fishkill, provided that the applicant can demonstrate, and the Village Board of Trustees can find, based upon competent evidence that (1) application of the moratorium to the applicant's property will cause the applicant substantial economic hardship, (2) the proposed demolition will not harm the historic character of the Village of Fishkill, and (3) the proposed demolition is consistent with the Comprehensive Plan of the Village of Fishkill and compatible with the surrounding land uses.

B. Upon submission of a written application to the Village Clerk by the property owner seeking a hardship waiver to this moratorium, the Village Board of Trustees shall, within thirty (30) days of receipt of such application, schedule a public hearing, public notice of such hearing shall be given at least five days prior to the date thereof in the official newspaper. At said public hearing, the property owner, and any other parties wishing to present evidence with regard to the application, shall have an opportunity to be heard, and the Village Board shall within thirty (30) days of the close of the said public hearing render its decision either granting, with or without conditions, or denying the application.

**Section 5. Emergency Waiver.**

A. The Village Board of Trustees may waive the provisions of this moratorium for a property upon which demolition would have proceeded under Chapter 54 of the Code of the Village of Fishkill in the absence of this moratorium, upon the application of an owner of the property or the Building Inspector or upon the Village Board of Trustees own motion, provided that the Village Board of Trustees can find, based upon competent evidence, that the structure proposed for demolition is structurally dangerous or unsafe and poses an imminent hazard to the public health, safety and welfare.

B. Upon submission of a written application to the Village Clerk by the property owner or the Building Inspector seeking an emergency waiver to this moratorium, the Village Board of Trustees shall, within thirty (30) days of receipt of such application, schedule a public hearing, public notice of such hearing shall be given at least five days prior to the date thereof in the official newspaper. At said public hearing, the property owner, the Building Inspector and any other parties wishing to present evidence with regard to the application, shall have an opportunity to be heard, and the Village Board shall within thirty (30) days of the close of the said public hearing render its decision either granting, with or without conditions, or denying the application.

**Section 6. Penalties for Violation.**

In the event of violation of this local law, the penalties and other enforcement authorities shall be those listed in Section 171-119 of the Code of the Village of Fishkill.

**Section 7. Severability.**

Should any sections or provisions of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**Section 8. Effective Date.**

This local law shall become effective on October 8, 2013 after filing in the Office of the Secretary of State of New York.