

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 Port Henry

Local Law No. 2 of 2011.

**A LOCAL LAW REPEALING AND REPLACING
VILLAGE OF PORT HENRY WATER LAW**

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

County City Town Village

of Port Henry as follows:

Section 1. Authority – This Local Law is adopted pursuant to New York Municipal Home Rule Law.

Section 2. Amendment of Water Law – The Local Law known as the “Village of Port Henry Water Law” is hereby repealed in its entirety and replaced by the attached amended Water Law.

Section 3. Severability – The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 4. Repealer – All Local Laws or Ordinances or parts of Local Laws or Ordinances in conflict with any part of this Local Law are hereby repealed. As stated in Section 2, this Local Law is specifically intended to supersede the provisions of the current Village of Port Henry Water Law.

Section 5. Effective Date – This Local Law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.

[continued on attached document]

VILLAGE OF PORT HENRY WATER LAW

SECTION 1 BOARD OF WATER COMMISSIONERS. The Board of Trustees of the Village of Port Henry, located in the Town of Moriah, Essex County, State of New York is hereby designated as the Board of Water Commissioners (hereinafter referred to as the “Board”). This Local Law and its rules and regulations are hereby adopted by the Village Board of Trustees acting as the Board of Water Commissioners. Whenever the Village Board of Trustees acts on matters within the jurisdiction and authority of the Board, it is acting as the Board.

SECTION 2 TITLE; PURPOSE; INTENT; APPLICABILITY. This Local Law shall be known as the “Village of Port Henry Water Law” or the “Water Law”. The purpose of the Law is to provide procedures for property owners to obtain water from the Village of Port Henry (the “Village”), rules and regulations of the Board, and the method of charging for both metered and unmetered services. The territory where this Law applies shall be the Village and those areas within its vicinity where water mains carry Village water.

SECTION 3 COMPLIANCE REQUIRED FOR SERVICE. Water service shall not be furnished to any user unless such user complies with all the provisions, terms, conditions, rules and regulations set forth herein, as such may be amended or modified.

SECTION 4 APPLICATION FOR SERVICE. Before water service is installed or an account is transferred to a new owner of a property connected to the Village Water System, an application must be made at the office of the Village Clerk. The Board shall review such application and no person shall receive water services until such permission shall be granted by the Board and then only for the purposes authorized in such permission. The application shall be in such form as the Board shall determine. By submitting an application, the property owner: (a) agrees to comply with the Water Law as it may be hereafter amended; and (b) agrees to pay all water rates, charges, fees, costs and expenses relating to such water service, in the amounts as set forth by the Board from time to time in a Resolution or rate schedule adopted by the Board.

Water service will not be provided until all arrears and charges due by the applicant at any premises owned or occupied by him or her have been paid in full and all arrears and charges associated with the property have been paid in full.

SECTION 5 APPLICATION FOR CONNECTION AND USE OF WATER. New applications for the use of water must be made to the Board and no person has a right to connect to the Village water system or to the use of water therefrom until permission shall be granted by the Board and then only for the purposes authorized in said permission. Fees for new service and fees for reconnecting

(turning-on) existing accounts will be established by the Board and included in the Rate Schedule described below in the section entitled "Water Consumption Charges and Rates".

SECTION 6 DAMAGE AND LEAKS. The property owner shall be liable for damages to persons or property he or she causes, including damages resulting from construction or from digging for the purpose of connecting of supply pipes to the water mains, and for any damages arising from any leak in the supply pipe beyond the curb shut-off valve. The expense of repairing damages to supply pipes or street mains caused by undermining, repacking or filling of excavation for private drain, sewer or other purpose shall be chargeable to the person causing such damage. Neither the Village nor the Board shall be held liable or accountable for any damage, proximate or remote, which shall result from leaks, bursting pipes or from any other cause upon any lands or any building or other structure receiving water service and the property owner shall pay for all water passing through the meter due to leakage and/or bursting pipes until the Board is properly notified and has had sufficient time to shut off the water service.

SECTION 7 CONNECTION. All supply pipes connecting with main shall be the diameter specified by the Department of Public Works, and shall be laid and kept in repair at the expense of the owner or the occupant. Such pipes (a) shall be laid at the depth specified by the Department of Public Works, which depth shall be at least three feet below the surface of the ground and (b) can be connected with the mains only after permission and under the direction of the Board.

There shall be a stop or waste cock of a type specified by or approved by the Department of Public Works upon the supply pipe within the walls of the building and no person shall, without permission of the Board, interfere with or alter the same in any manner, except to shut off the water when necessary.

Each supply pipe must be furnished with a valve at or near the curb covered with a suitable iron valve box leading to the surface of the ground and which shall be at all times subject to the control of the Board and no person shall open, close, or interfere with the same in any way without permission of the Board. The property owner is responsible for any damages to this valve that are the result of unauthorized valve openings or closings.

The stop or waste cock, valve and iron valve box shall be of a type specified by or approved by the Department of Public Works.

SECTION 8 INSPECTIONS; ACCESS. A member of the Board or its authorized agent or the Department of Public Works may at any time enter a building upon premises where water is used from supply pipes and make necessary examinations and inspections. The Board shall have the right to shut off water service to any property where such access is denied.

SECTION 9 VILLAGE RESERVES RIGHT TO SHUT OFF WATER. In case of extensions, repairs, or from other necessity, the Board shall have the right to shut off water service to any and all

properties connected to the Village water service and neither the Board nor the Village of Port Henry shall be liable for any claims for damages for deprivation of water caused thereby.

SECTION 10 WATER METERS.

a. Water meters will be supplied and installed by the Board. The initial cost of purchasing a meter and installing a meter shall be the responsibility of the Board. The property owner shall be responsible for protecting the meter from freeze damage or other damages. Frozen or otherwise damaged meters will be replaced or repaired by the Village and the costs of doing so will be added to the property owner's next water bill, or invoiced separately.

b. Meters that fail due to normal wear-and-tear or aging, as determined by the Board, remain the responsibility of the Board. There will be no cost to the property owner for replacing such meters.

c. If a meter becomes out of repair or for any reason fails to register correctly the consumer shall immediately report the same to the Village Clerk of the Village of Port Henry.

d. Ownership of all installed meters remains with the Village of Port Henry.

e. The Board is not required to install a meter at any property, and may elect to bill any property owner at a flat rate, as described in Section 13. The decision to install or not install a meter at any given property rests solely with the Board.

SECTION 11 BILLING; LATE PENALTIES; SHUT OFF FOR NON-PAYMENT. Water usage and related water charges shall be payable semi-annually. Water meters will be read during each April and each October, and water bills mailed in early May and early November. Due dates will be established by the Board, but shall not be less than 30 days from the date of mailing. The due date shall not be earlier than the first Friday following the regularly scheduled Board of Trustees meeting in June and in December.

SECTION 12 ADJUSTMENTS TO BILLS; PENALTIES AND INTEREST FOR NON-PAYMENT. The Village Clerk or the Village Treasurer of the Village of Port Henry shall mail to each property owner an itemized bill containing a direction to pay the amount thereof to the Village and shall keep a roll of all water rents for the period. If the property owner shall fail and omit to pay the same by the due date he or she shall be charged a penalty of 10% of the total unpaid bill. The Board may, after 60 days past the due date, cut off the supply of water until the said amount and penalty shall be fully paid. Interest on the entire amount outstanding shall accrue at 1% per month beginning with the date being 60 days after the due date. Interest and penalties cannot be waived.

Any water bill (for water rents and debt service) with an outstanding balance as of April 1 of each year shall be re-levied to the next Village property tax bill as provided in Village Law, Section 11-1118.

The Village may but is not required to, at the written request of the property owner, mail the above itemized bills to tenants instead of to the owner (with a copy sent to the owner). This alternate mailing does not in any way change the responsibilities of the property owner. The property owner remains fully responsible for timely payment, and for any penalties resulting from non-payment of the water bill.

No claims for adjustments to billed amounts shall be considered unless presented in writing prior to the "all amounts are final" date stated on the mailed invoice. The Village Treasurer may correct erroneous meter readings, or revise bills for missing meter readings that become subsequently available, provided that such corrections or revisions be documented in writing. All such adjustments must be reported to the Board at the next regularly scheduled meeting. Requests for adjustments or revisions to the water bills based on any other factors must be filed with the Village Clerk not later than the "all amounts are final" date and may be reviewed and voted on by the Board at the next scheduled meeting. Failure to review and/or vote on such requests shall constitute a denial.

SECTION 13 WATER CONSUMPTION CHARGES AND RATES (WATER RENTS). The rates per 1,000 gallons of water consumption during each semi-annual billing period, and any flat rates for water service that is not metered, will be set by Resolution of the Board adopting a Water Consumption Charges and Rates Schedule (the "Rate Schedule"), such rates being water rents as provided for in Village Law Section 11-1118. The Board may, from time to time, adopt a revised Rate Schedule by Resolution after holding a Public Hearing upon at least five (5) days public notice. The proposed revised Rate Schedule shall be made available at the Public Hearing. If adopted, the revised Rate Schedule would take effect and replace the then-current Rate Schedule for the next complete semi-annual billing period or at such other legally permissible time specified in the Resolution adopting it. The Village Board of Trustees, acting as the Board, shall also have the right to revise the Rate Schedule as part of its annual budget process. In that case, the budget Public Hearing shall be the Public Hearing at which the public may comment concerning the proposed revised Rate Schedule.

The Rate Schedule may include a discount based on total volume consumed. Notwithstanding the above, the following properties will not be entitled to any discounts based on total volume consumed. All gallons will be billed at the same rate as established for the first (or lowest quantity) gallons:

- Buildings containing multiple housing units but only one water meter.
- Buildings containing mixed uses, such as one or more residences and one or more businesses, but just one water meter.
- Any property where the number of meters is less than the number of separate units.

Any "Minimum charge per each semi-annual billing period" does not apply to accounts, such as seasonally occupied properties, that have been "turned off" by the Village for substantially all of the

billing period, where substantially all means at least 5/6 of the billing period. A separate fee, as detailed on the Rate Schedule, shall apply to all requests that have been granted for service “turn-off” and “turn-ons”.

Rates may be established by the Board on the Rate Schedule for any usage for specific categories of use, whether metered or unmetered, such as by the Fire Department, the Joint Waste Water Treatment Plant, the Town Campground, the Village Campground, Village shop and office spaces, and the Sherman Free Library. The Village Treasurer will budget for and record the appropriate entries in the books of the Village, the Water Department, and the Joint Waste Water Treatment Plant to record the sale of Village water to other departments.

SECTION 14 CAPITAL (INCLUDING DEBT) CHARGES AND RATES. As part of the Rate Schedule, the Board shall establish a User Unit Schedule detailing the number of user units for each classification. The original User Unit Schedule is expected to be attached to the Rate Schedule as detailed in the above Section entitled “Water Consumption Charges and Rates” and may be revised or amended by the Resolution of the Board as detailed therein.

Debt incurred by the Village for the benefit of the water system will be billed to property owners based on the number of “units” at each water connection and the category of user, without regard to the volume of water consumed, and will appear on the semi-annual water bills as a separate line item.

For multiple-family dwellings with only one water meter, “unit” means each separate apartment. For commercial buildings with only one water meter but space for multiple tenants, “unit” means each separate space. Single family dwellings that have not been sub-divided into apartments are one “unit”. If a building has multiple meters, one for each tenant, then each meter is a “unit”. If a building is renovated, sub-divided, or any way changed so that the number of spaces or apartments is changed, the revised number of “units” will be used for billing of water debt, starting with the next semi-annual billing period. This paragraph is intended to explain the Board’s intent; however, the units as detailed on the Rate Schedule shall control and be the units which will be used to charge for capital/debt costs.

Water debt charges are payable whether the units are occupied or empty or whether they use any Village water. Water accounts that have been shut-off remain subject to the full semi-annual debt repayment charge.

The projected debt repayments, both principal and interest, will be determined during the annual budget review and approval cycle. The water debt rate from the approved budget will be used for water bills issued in the following November and May.

SECTION 15 METER READINGS.

a. The Board will first attempt to read all water meters during normal working hours. If access to the meter is not possible at that time, a notice will be left at the property, advising the tenant or property owner of their responsibilities to either:

- Call, e-mail, or otherwise contact the Village Office and provide a current meter reading; OR
- Call the Village Office and arrange for a mutually agreeable date and time for a Village employee to return to the property and read the meter.

If the Board is unable to obtain a current meter reading and the owner or occupant fails to either contact the Village office to reschedule a meter reading or provide a current meter reading, an additional fee of \$100 will be added to the water bill. There will be no other notice to the owner. This additional fee cannot be waived or adjusted after the “all bills are final” date specified on the Invoice.

If no meter reading is obtained or provided as described above, or if a meter is found not to be registering, or is registering incorrectly, or in the opinion of the Board or its designee, the Village Treasurer, the current meter reading cannot be adequately resolved to the prior meter reading, a bill based on estimated usage will be mailed to the customer. The estimated usage will be based on actual metered usage from the same period (May to October, or November to April), within the last two billing cycles, if available, or if not available, from any full period within the prior two billing cycles, provided that water service was provided for the entire period.

If no such actual usage is available, the account will be billed the “No Meter Reading Available” rate, and the \$100 fee described above will then be added to the water bill. The customer will be billed the “No Meter Reading Available” rate until the meter has been read by the Board two (2) consecutive times. The \$100 fee described above for no meter reading available will not be applied to the account when readings are available. However, the “No Meter Reading Available” rate will continue to be applied until the second consecutive meter reading is available. Fees associated with missing readings will not be refunded or offset.

b. The Board may require an actual meter reading at least once per year for every metered account.

c. For properties that are occupied only part-year, such as “summer residences”, if it is not possible to obtain a current reading during the normal meter-reading periods, due to a lack of access and a lack of an occupant to provide the required information, the owner may request that estimated readings be used until the owner or occupant returns, without incurring a penalty for failure to provide a timely reading. In this situation, the estimated reading would be used for one billing period, and an actual reading would be used in the following period, adjusting total water billings for the two periods to the actual total consumption for the two periods. The owner is responsible for contacting the Board by contacting the Village Office and requesting the use of an estimate, to be followed by an actual reading upon the owner's return. Such requests must be received by the Village Office on behalf of the Board at least one week prior to May 1st or November 1st, depending on the respective billing period. The requested use of an estimated reading cannot be repeated in the next billing period. The owner is responsible for arranging for an

actual reading at least once per year.

SECTION 16 SUPPLY OF WATER TO PROPERTIES LOCATED OUTSIDE VILLAGE. The Board may, but is not required to, supply water to residents outside the Village. Such arrangements may be made under separate agreements with the Town of Moriah, or by agreements with individual property owners in such form as may be authorized from time to time by Resolutions of the Board.

SECTION 17 PENALTIES; PROHIBITIONS.

a. No person shall in any manner tamper with, disconnect, by-pass, damage or otherwise impair the usefulness and correctness of any meter. Any person convicted of a first violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Nine Hundred Fifty Dollars (\$950.00). Any person convicted of a second violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and/or imprisonment for a period not exceeding fifteen (15) days.

b. No person shall in any manner pollute the Village water or take any action which tends to pollute the Village water or its system. Any person convicted of a first violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Nine Hundred Fifty Dollars (\$950.00). Any person convicted of a second violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) and/or imprisonment for a period not exceeding fifteen (15) days.

c. No person, except persons of the Fire Department of the Village of Port Henry, or others acting under their direction in the exercise of their duties as firemen, shall open or shut or otherwise interfere with any public fountain, hydrant, stop cock, water gauge, blow off or air vent and no person shall trespass in or upon any reservoir, lands or property belonging to or connected with the water works system under a like penalty. Any person convicted of a first violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Two Hundred Fifty Dollars (\$250.00). Any person convicted of a second violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding One Thousand Five Hundred Dollars (\$1,500.00) and/or imprisonment for a period not exceeding fifteen (15) days.

d. After December 31, 2012, no person shall use water not measured by a meter unless the Board shall grant permission prescribing the time, terms and conditions of such water use. Any person convicted of a first violation of this subsection shall be deemed to have committed a violation and shall be subject to a fine not exceeding Two Hundred Fifty Dollars (\$250.00). Any person convicted of a second violation of this subsection shall be deemed to have committed a

violation and shall be subject to a fine not exceeding One Thousand Five Hundred Dollars (\$1,500.00) and/or imprisonment for a period not exceeding fifteen (15) days.

e. Where no penalty has been specifically prescribed for a violation of any section of the Water Law, a first violation shall result in a penalty not exceeding Two Hundred Fifty Dollars (\$250.00) and a second violation shall result in a penalty not exceeding Nine Hundred Fifty Dollars (\$950.00).

f. Each week that a violation continues shall constitute a new offense.

In addition to the penalty imposed for the violation of any section of these articles, it is hereby also ordained that a violation thereof shall constitute disorderly conduct.

The Village reserves all other legal rights and remedies which may be available to it, including, but not limited to, theft of water, tampering with or damage to Village property and/or illegal connection to a municipal water system. Any penalties hereunder shall be in addition to any existing under State or Federal or Local statutes, rules and/or regulations.

SECTION 18. RESTRICTION OF WATER SERVICE; CONSERVATION OF WATER. The Board may limit or prohibit the use of Village water for any purposes, at such times and upon such conditions as it shall prescribe. The Board may, by Resolution, adopt emergency restrictions if they deem it necessary due to drought, emergency or circumstances where uncontrolled use of water may jeopardize the supply and service of water for necessary living and/or fire protection.

SECTION 19. POOLS. Notwithstanding any provision hereunder to the contrary, all properties with swimming pools must be metered.

SECTION 20. DISCONTINUANCE OF SERVICE. All persons who may intend to discontinue use of the water must give notice to the Board, in care of the Village Clerk of the Village of Port Henry, before the discontinuance thereof. All service disconnections (“turn-offs”) require a fee to be determined by the Board and listed on the Rate Schedule. An account that has had service “turned off” by the owner will be billed zero for water usage, but will continue to be responsible for any debt services that would otherwise apply to the account.

SECTION 21. CLERK AND AGENT OF THE BOARD. The Village Clerk and the Village Treasurer of the Village of Port Henry shall act as the Clerks and Agents of the Board and shall perform the duties prescribed in and by these articles and such additional duties as may be required, including the collection of water rents.

SECTION 22. PRESIDING OFFICER; MEETINGS.

a. The Mayor of the Village shall be the president of the Board of Water Commissioners and regular meeting thereof shall be held at the time and place of the regular meetings of the Board of Trustees of the Village of Port Henry.

b. Special meetings of the Board may be called by the President at any time upon the giving of two hours notice, oral or written, to the members and any two members of the Board may issue a like call upon twenty-four hours notice.

SECTION 23. REPEALER. All rules, regulations and ordinances relating to the use of Village water which existed prior to this local law are hereby repealed. Local Law No. 1 of 1975 is hereby repealed.

SECTION 24. EFFECTIVE DATE. This law is effective upon timely filing with the State of New York Secretary of State.

(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. 2 of 2011** of the ~~(County)(City)(Town)(Village)~~ of **Port Henry** was duly passed by the **Village Board of Trustees** on **April 27, 2011**, 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, 199....., and was (approved)(not approved)(repassed after disapproval) by the and was deemed duly adopted on, 199...., 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 and was (approved)(not approved)(repassed after disapproval) by the ... on, 199... 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, 199, in accordance with the applicable provisions of law.~~
~~*(Name of Legislative Body)*~~
~~*(Elective Chief Executive Officer)*~~

~~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, 199....., and was (approved)(not approved)(repassed after disapproval) by the on, 199... Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of, 199....., 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, 199....., 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, 199....., 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 town 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

(Seal)

Date: _____

(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 WARREN

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.

Signature: **Robert H. Hafner, Esq.**

Village Counsel

Title

County

City

Town of **Port Henry**

Village

Date: