

Proposed Local Law Number 12 Of 2022

County of Ulster

A Local Law Providing For The Rights Of The Residents Of Ulster County To Clean Water, And For The Rights Of The Hudson River, Also Known As Mahicannituck

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. TITLE.

This Local Law shall be known and referred to as the “Clean Water and Rights of the Hudson River / Mahicannituck” law.

SECTION 2. LEGISLATIVE INTENT AND FINDINGS.

The Ulster County Legislature hereby finds that the people of Ulster County possess the right to clean water.

The Legislature further finds that the Hudson River possesses the rights to exist, regenerate & flourish.

The Ulster County Legislature finds it necessary to enact laws to protect those rights from violation by business and government entities which have threatened them, and otherwise could continue to do so.

SECTION 3. DEFINITIONS.

As used in this local law, the following terms shall have the meanings indicated:

“Business entity” shall mean any individual, partnership, copartnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate, institution, not-for-profit organization or any other legal entity

“Clean Water” shall mean water free from the non-natural presence of any one or more substances, contaminants, noise, or pollutants in quantities which are, or may be potentially harmful or injurious to, human health or welfare, animals, fish, plant life, and water quality, or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

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“Exist” shall mean that the Hudson River has the capacity to naturally perform basic functions historically common to it.

“Flourish” shall mean that the Hudson River has the capacity to naturally prosper by vigorously growing and developing, which, in turn, allows it to robustly perform its basic functions.

“Government” shall mean any municipality or division, agency or authority of local or county government; as well as the governments of New York State and the United States of America in the case that they have not lawfully pre-empted Ulster County’s authority to act.

“Hudson River” / “Mahicannituck” shall include the Hudson River ecosystem, including but not limited to its tributaries and its watershed.

“Regenerate” shall mean the capacity to regain historically basic functions following a natural or human-made interference with those functions.

SECTION 4. PROHIBITIONS.

It shall be unlawful for any business entity or government to violate any of the following:

- A. The right of the people of Ulster County to:
 - 1. have a healthy Hudson River / Mahicannituck, and
 - 2. be free from activities or projects which violate that right; and

- B. The right of the Hudson River / Mahicannituck to:
 - 1. exist
 - 2. flourish
 - 3. regenerate

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4. have clean water
5. naturally recharge
6. flow
7. have water quality necessary to provide habitat for native plants and animals
8. be restored, and
9. be free from activities or projects which violate those rights.

SECTION 5. IMPLEMENTATION AND ENFORCEMENT.

A. Implementation and Enforcement by Ulster County. The County of Ulster shall take all necessary actions to implement, defend, and enforce the provisions of this Local law.

B. Enforcement by the Hudson River. The Hudson River may enforce or defend the provisions of this Local law through an action brought by any resident of Ulster County in the name of the Hudson River as the real party in interest, in any appropriate court.

C. Enforcement by Residents of Ulster County. Any resident of Ulster County may enforce or defend the provisions of this Local law in any appropriate court.

D. Damages and Fees. Any business entity or government that violates any provision of this Local law shall be liable for any damages caused to the Hudson River as a result of that violation. Damages shall be measured by the cost of fully restoring the Hudson River to its natural state before the violation, and shall be paid to Ulster County to be used exclusively for the full and complete restoration of the River as affected by the violation. A prevailing plaintiff, in an enforcement action, shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.

E. Duties and Obligations. The rights of the Hudson River secured within this Local Law shall not be interpreted to confer liabilities, duties, obligations or responsibilities on the Hudson River.

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SECTION 6. AUTHORITY.

This Local Law is adopted under the authority of the Ulster County Charter, pursuant to the authority provided to home rule municipalities as recognized by the New York Constitution and implementing statutes, and by the inherent right of the people of Ulster County to make laws which recognize and expand civil and environmental rights at the county level, under the authority of the current New York Constitution; and pursuant to democratic rights secured by prior New York constitutions.

SECTION 7. SEVERABILITY.

In the event that any portion of this Local Law is found to be invalid, such finding will not have any effect on either the remaining portions or applications of this Local Law or any provisions of the Ulster County Charter, which shall remain in full force and effect.

SECTION 8. EFFECTIVE DATE.

This Local Law shall become effective immediately upon filing with the Office of the Secretary of State of the State of New York.