

**TOWN OF WOODBURY  
INTRODUCTORY LOCAL LAW #4 OF 2005**

**A LOCAL LAW CREATING SECTION 310-31A OF THE CODE OF THE TOWN OF WOODBURY ENTITLED "CONSERVATION CLUSTER DEVELOPMENT OVERLAY DISTRICT" PROVIDING REGULATIONS THEREFORE.**

BE IT ENACTED by the Town Board of the Town of Woodbury, Orange County, New York as follows:

Section 310-31A of the Code of the Town of Woodbury is hereby created as follows:

**SECTION 1: TITLE**

This law shall be entitled, "A Local law creating a "Conservation Cluster Development Overlay District" and providing regulations therefore in a new section of the Zoning Law, to be numbered 310-31A"

**SECTION 2: PURPOSE AND INTENT**

The purpose of this law is to provide incentives for the permanent preservation of substantial tracts of open space, as more fully set forth herein.

**SECTION 3: AMENDMENT**

Chapter 310 of the Town of Woodbury Code, entitled "Zoning" is hereby amended by adding a new chapter thereto, to be numbered Section 310-31A, entitled "Conservation Cluster Development Overlay District," with text as follows:

**§ 310-31A. Conservation Cluster Development Overlay District.**

**A. Introduction and Creation of Overlay District**

This law is enacted under the authority of Sections 261-b and 278 of the Town Law and Section 10 of the Municipal Home Rule Law. There is hereby established a Conservation Cluster Development Overlay Zoning District, which shall be coterminous with the boundaries of the R-1A, R-2A, and R-3A residence districts. Within such overlay zone, the Town Board may authorize a conservation cluster development according to the procedures and requirements specified below. The Town Board, if it determines in its legislative discretion to designate a particular site for a Conservation Cluster Development, may, in its discretion, place whatever reasonable conditions upon a project that it deems necessary.

Only lands meeting the eligibility criteria in section C below may be considered for designation for Conservation Cluster Development. However, compliance with the eligibility requirements in no way compels the Town Board to make such designation. A designation for Conservation Cluster Development is a determination within the legislative

discretion of the Town Board. The Town Board shall have the right to reject any application for Conservation Cluster Development at any time prior to making its final designation of a site.

#### B. Purpose

The primary purpose of the Conservation Cluster Development Overlay is to provide a mechanism and incentive, pursuant to the authority of Town Law 261-b, for development of cluster subdivisions or developments which permanently preserve larger tracts of open space than conventional cluster subdivisions or developments, and place ownership and control of such open space with the Town or its designated public entity or conservation land trust organization, which the Town Board determines will implement the Town's open space and natural resource policies by establishing or contributing to any one or more of the purposes set forth below, which are hereby found to be important community benefits and amenities:

1. To implement one or more of the Town Open Space and Natural Resource Policies.
2. To secure permanent preservation of critical mass(es) of open space which the Town Board determines to be in the Town's interests to preserve.
3. To preserve important stream corridors, wetlands, water-bodies, recharge areas, wellhead protection areas, ridgelines, slopes, or scenic vistas that contribute to the Town's open space and natural resource system.
4. To provide internal open space and buffers within and around residential neighborhoods, as well as greenbelts and essential links between open space areas.
5. To enhance the mix of housing opportunities, particularly for "active adults (age 55 plus)," first time homebuyers and young professionals and pursuant to recommendations of the County Planning Department to encourage inclusion of Senior Citizen Housing.
6. To reduce sprawl and implement the quality community and smart growth objectives.
7. To minimize impacts on the land by reducing the amount of clearing and regrading required for a conventional plat.
8. To protect important environmental, historic, or prehistoric resources.
9. To increase opportunities for passive recreation and enjoyment of natural settings.
10. To otherwise fulfill the purposes of Cluster Development as otherwise set forth in Section 310-31 while also permanently preserving larger tracts of open space than conventional cluster subdivisions or development.

#### C. Applicability and eligibility requirements.

To be eligible for designation as a Conservation Cluster Development, a site must meet the following minimum requirements:

1. The proposed Conservation Cluster Development site must be a minimum of 125 contiguous acres. For purposes of this requirement, land may be considered contiguous land even if it may be separated by a road, provided it is in common ownership or control. Land which, in the Town Board's judgment, contains substantial existing development which would impair the ability to preserve significant critical mass(es) of open space shall not be considered to comply with this eligibility requirement.
2. A Conservation Cluster Development must be served by a central water and sewer system approved by the Town Board.
3. A Conservation Cluster Development must preserve at least 20% of the total gross land area of the Conservation Cluster Development as open space as defined in G-1 below, and is encouraged to provide more than that as provided in D-2 below.
4. Cluster development that does not meet the eligibility requirement set forth in Sections C (1), (2) and (3) may be permitted on a site of 15 acres or more in accordance with §310-31 (standard cluster development).
5. Compliance with the eligibility requirements in no way compels the Town Board to designate the site for Conservation Cluster Development.

D. Type and number of residences permitted; lot sizes.

1. The types of residential units that may be permitted in a Conservation Cluster Development are single-family detached dwellings. Property presently in the R-1-A, R-2-A or R-3-A zoning district, which is hereafter designated for Senior Housing Development (SH) may also be included, if approved by the Town Board, in a Conservation Cluster Development. Portions of a Conservation Cluster Development designated for senior citizen housing may include single-family detached or semi-detached dwellings. A semi-detached dwelling is one which has a common wall, floor or ceiling with only one other unit.
2. The maximum number of residential lots and residences that may be approved by the Planning Board in a Conservation Cluster development shall be determined by the following calculation:
  - a. From the total project area included in the application, deduct the following areas of wetlands and steep slopes to get the net developable area:<sup>1</sup>

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<sup>1</sup> Deductions for wetland and steep slopes should not be applied twice to the same acreage. If an area is deducted for one physical factor, it should not be deducted again for the other physical factor.

PERCENT OF TOTAL PROJECT AREA TO BE OPEN SPACE AS PER G-1 HEREIN	PERCENT OF WETLANDS TO BE DEDUCTED FROM TOTAL PROJECT AREA	AREAS WITH STEEP SLOPES TO BE DEDUCTED FROM TOTAL PROJECT AREA
20% or more	80%	All slopes over 25% grade
25% or more	70%	All slopes over 30% grade
30% or more	50%	All slopes over 35% grade
35% or more	30%	All slopes over 40% grade
40% or more	10%	All slopes over 45% grade

- b. From the net developable area as calculated in subsection "a" above, deduct the following percentage of the area to be developed [(net of the protected open space in G-1)] to account for roads, drainage features and utilities: 7.5% in R-2A and R-3A; and 10% in R-1A and RSH.
  - c. The net acreage remaining after the deductions in subsection "a" and "b" above shall be divided by the minimum lot size permitted for one family dwellings in the appropriate zoning district, i.e., three acres in R-3A, 2 acres in R-2A, and 30,000 square feet in R-1A (assumes central water and sewer). This calculation shall determine the permitted number of dwelling units in the entire Conservation Cluster Development, including any portion of the project devoted to Senior Housing. No increase in permitted number of units above that provided in this section shall be allowed for senior housing units. Lot size for all housing units, including Senior units, shall be as set forth in section (D)(4) below. Section 310-36 shall determine permissible lot size, but not overall density.
  - d. Any existing dwelling on the proposed Conservation Cluster Development site that is proposed to remain shall be counted as part of the total permitted unit count.
3. In a Conservation Cluster Development, the above calculation is to be applied in lieu of a standard yield layout.
  4. Lot sizes and bulk guidelines - This section does not include specific bulk requirements. The Conservation Cluster Development Overlay District is intended to be flexible in order to create Conservation Cluster Developments that are responsive to the purpose of this section and reflect the characteristics of the land. Once the yield calculation is determined by the Town Board, in order to facilitate the preservation of open space, the conservation cluster permits lot sizes smaller than the underlying zoning. In reviewing plans for Conservation Cluster Development the Planning Board shall be guided by the bulk requirements of the Zoning District below the designated district in which the property lies except for minimum lot size, i.e., property in R-3A use bulk requirements of R-2A, R-2A, use bulk requirements of R-1A; R-1A use requirements of R-O.25. The distance between buildings, including lot frontage, shall

follow generally accepted planning practice and contemporary neighborhood design. In order to minimize site disturbance and fit development into the terrain in Conservation Cluster Developments, building height shall be measured from the average grade at building foundation.

- a. Minimum lot sizes in a Conservation Cluster shall be one acre (43,560 square feet) in R-3A; 30,000 square feet in R-2A, and 15,000 square feet in R-1A. If a portion of the Conservation Cluster is designated for Senior Housing under the SH zoning district, minimum lots sizes for such senior housing shall be as established in Section 310-36.
- b. Maximum size of structures shall be established by the Planning Board acting as the Architectural Review Board during site plan review. Said building size limits are intended to assure that the scale of residential structures are in proportion to the size of the lots.
- c. In order to minimize site disturbance and to fit development into the terrain, the Planning Board may vary minimum Town street specifications on private streets and driveways with regard to right of way, cul-de-sac length, sidewalk, pavement width, driveway grade and/or curb design, provided that the Planning Board finds street and driveway design is acceptable and streets can be properly maintained, after seeking advice from the Highway Superintendent and the Emergency Services Organizations (ESO). However, in varying said specifications, there shall be no shared driveways.
- d. Further, the Town Board may adopt design guidelines as part of the conditions of authorizing the Planning Board to proceed with its subdivision, site plan, and any special permit reviews, as set forth in section E (5) below.

E. Procedures for Designation of Conservation Cluster Development sites.

1. Application. The applicant shall apply directly to the Town Board under this section, setting forth the manner in which the proposal meets the purposes of this Section, and setting forth the specific benefits to the Town proposed.
2. Evaluation by the Town Board. In making its determination on whether to authorize the Conservation Cluster Development, the Town Board shall give consideration to the criteria outlined in the introduction to 310-31A (A and B) above. The Town Board shall evaluate the request in the same manner as any legislative amendment of the zoning map, giving consideration to the provisions of this section, the Town Master Plan, the Town's open space policies, present and anticipated open space and infrastructure needs, and any other relevant policy considerations. The Town Board shall refer the application to the Town Planning Board, the County Planning Department, and the Town's consultants for review and recommendation. A public hearing shall be held on the proposed designation of any site for Conservation Cluster Development, upon public notice of at least five (5) days in the official newspaper of

the Town. The applicant shall submit a site-specific SEQR analysis of all potential impacts of the proposed development project, including, without limitation, impacts on transportation, water supply, waste disposal, fire protection, affordable housing, public facilities, resources and environmental quality, and compatibility with the area. The Town board shall conclude the SEQR process prior to any final approval to designate a Conservation Cluster Development site.

3. Decision. After considering the above factors, and any other relevant material, the Town Board shall determine whether the designation of the proposed site for a Conservation Cluster Development is in the interests of the Town, and may approve an application which it determines to be in the interests of the Town. This decision shall be deemed an action within the Board's legislative discretion.
4. Matters addressed in Town Board Designation. Upon designation of a site for Conservation Cluster Development, the Town Board shall:
  - a. cause the Town zoning map to be amended to show the designation of the site for Conservation Cluster Development.
  - b. confirm the calculation of maximum permitted dwelling units as provided in D-2 herein.
  - c. Specify the open space it determines to meet the standards of section G-a, the proposed use and ownership thereof, whether by the Town or other designated public entity or conservation or land trust organization, and any proposed conditions on use of such property. The Town Board may authorize the Planning Board to adjust the boundaries of the open space during its subdivision review, and, if so, shall specify the extent of the Planning Board's authority and any modifications which would require the Town Board's consent
  - d. Specify the water or sewer infrastructure improvements to be made for the benefit of the Town, including any conditions on time of completion, ownership, phasing, or similar factors, and specify any facilities to be located within the designated open space, provisions for future maintenance, and any conditions relating thereto.
  - e. Specify any further conditions that it deems appropriate relating to mitigating identified impacts disclosed in the SEQR process, minimizing impacts of the project on surrounding properties, or otherwise relating to the proposed project design, features, or operations.
5. Planning Board Authority after Town Board Designation.

In addition to reviewing a subdivision plat in accordance with Chapter 272, Part 2, of the Town Code, the Planning Board shall review a site plan for the location of each house in accordance with site plan approval requirements (Article VIII of this chapter)

of the Town Code, and any special permits for Senior Housing, together with any other approvals required. Subdivision, special permit, and site plan review may proceed simultaneously.

F. Common areas. All provisions regarding common areas and Homeowners Association and open space other than that defined in G-1 shall be the same as section 310-31, except as otherwise specified below:

1. The conservation cluster shall provide for a means of maintenance that is financed by the homeowners, in a manner other than tax revenue. Said instrument shall be approved by the Town Board.
2. Improvements. No structure or building may be constructed nor a stream or water body altered nor other major physical or topographical alterations made to common areas, including undisturbed forever-green areas, except with written consent of both the Planning Board and the body charged with maintaining common areas. No such written consent shall be given with regard to forever green area unless it appears that the proposal to alter the forever-green open space is limited to clearance of dead or fallen trees, consistent with the concept of keeping the open space in its natural state, will not create a runoff or erosion and sediment control problem and will not otherwise create a safety, or health problem and will not otherwise impact the aesthetic value of the forever green space.
3. Dedication of common areas. The developer shall convey the common areas, other than those dedicated to the Town or other qualified body or agency as defined in G-1 to the homeowners' association required to be established pursuant to the Rules and Regulations of the New York Attorney General for Homeowners' Associations, or other body charged with maintaining common areas.

G. Open Space

1. Areas identified as part of or consistent with the goals of the Town's open space and natural resource policies and included to qualify for consideration under the dwelling unit calculation (D-2 herein) shall be dedicated, gifted or donated to the Town or other public entity or to recognized conservation or land trust organizations acceptable to the Town Board and qualified under Internal Revenue Service Guidelines, together with conservation easements requiring that such lands and shall remain forever green and undeveloped in perpetuity, except the Town Board in its sole discretion may authorize limited use of such land consistent with its environmentally sensitive features, unstable steep or delicate qualities. Such use of lands may include walking trails, birdwatching, fishing, and similar pedestrian activities, but in no case involving use of motorcycles, ATV's, or other motorized vehicles; and, in designated areas only in such locations as the Town Board may, without obligation, deem it appropriate, placement of project related or public infrastructure improvements (utilities, water tanks, and the like), subject to proper screening and landscaping. Any authorization of use of any open space areas shall be limited under conditions the Town Board deems appropriate. In no

case shall the Town Board approve paved surfaces within these open space areas. The Town Board shall also have authority to limit access and use, or prohibit access and use, to all or any portion of such open space areas, or to limit the days or hours of any permitted access and use, after considering all of the circumstances and the characteristics of the land. Said gifts, or offers of dedication shall be filed with the Town in a form acceptable to the Town Attorney, prior to final plat being signed by the Planning Board Chairperson. Conservation easements meeting the standards of the New York State Environmental Conservation Law shall also be applied to said lands. All dedicated lands and conservation easements shall be irrevocable and applicable to all said land. The applicant for a Conservation Cluster Development shall not be required to additionally comply with the Town's Open Space Administration Local Law (Chapter 215 of the Town Code) for the these lands.

2. In addition to the lands defined above, the Conservation Cluster Development may contain additional open space or common areas to be owned by a Homeowners Association or other entity approved by the Town, which shall be subject to Chapter 215 of the Town Code (see F-3 above).

H. Deed provisions. Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, restrictions, easements, charges and liens, dedications and other restrictions, including assessments and the provision for liens for nonpayment of such.

I. Performance bond. Before the commencement of any site work or issuance of any building permits for all or any phase of a development, the developer shall file with the Town Board a performance bond to ensure the proper installation of all utilities, drainage, road, recreation and park improvements shown on the site plan or subdivision. A maintenance bond to ensure the proper maintenance of all common lands until the appropriate body (homeowners' association, condominium or cooperative) assumes responsibility shall be filed with the Town. The amount and period of said bonds shall be determined in accordance with existing local law (Chapter 92).

#### SECTION IV: ZONING MAP AND SCHEDULE

1. The Zoning Map of the Town of Woodbury is hereby amended to indicate the creation of the Conservation Cluster Overlay Zoning District as set forth herein, coterminous with the boundaries of the R-1A, R-2A, and R-3A zoning districts, and to indicate, as part of the printed text, a reference to this Chapter of the zoning law.
2. At the time that any specific proposed site is designated by the Town Board for Conservation Cluster Development, pursuant to the provisions of this Law, the Zoning Map shall be amended to show that such site has been so designated.
3. The Zoning Use Schedules for the R-1A, R-2A, and R-3A zoning districts shall be amended to indicate, by footnote, that such zoning districts form a portion of the Conservation cluster Development Overlay Zoning District, with a reference to section 310-31A of the Zoning Law.



## SECTION V: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State in Albany.

## SECTION VI: SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

**INTRODUCTORY LOCAL LAW # 9 OF 2005**

**A LOCAL LAW CHANGING THE ZONING OF AN APPROXIMATELY  
707 ACRE PARCEL OF LAND ALONG TROUT BROOK ROAD BETWEEN  
SMITH CLOVE ROAD AND ROUTE 32 FROM R-3A TO R-2A.**

**TOWN OF WOODBURY  
INTRODUCTORY LOCAL LAW # 9 OF 2005**

**A LOCAL LAW CHANGING THE ZONING OF AN APPROXIMATELY 707  
ACRE PARCEL OF LAND ALONG TROUT BROOK ROAD BETWEEN SMITH  
CLOVE ROAD AND ROUTE 32 FROM R-3A TO R-2A.**

**SECTION I: TITLE**

This law shall be entitled: "A local law changing the zoning of an approximately 707 acre parcel of land along Trout Brook Road between Smith Clove Road and Route 32 from R-3A to R-2A."

**SECTION II: PURPOSE AND INTENT**

1. The subject property is located along Trout Brook Road between Smith Clove Road and Route 32. It is in a location in close proximity to the major traffic interchanges of the New York State Thruway and Route 32.
2. Within the Town of Woodbury Master Plan, adopted on March 3, 1988, there is an acknowledgment that there is a need to provide for differing types and densities of residential development. The subject property is shown within the "low density residential" category (area between Smith Clove and Pine Hills Road, east of the Thruway) and is surrounded by R-1A, R-2A, R-3A, and C-R zones. The Master Plan acknowledges that there will be continuing needs for new housing in the Town and that one or more of the areas designated as "low density residential" could legitimately be re-zoned to a higher density designation:

As the Town grows, and in order to maintain the integrity of the overall Plan Concept, one or more of these latter areas may be considered for extension of the Suburban Density portions of the hamlet. This provides the Plan with the flexibility necessary to allow limited growth without changing the Plan. To do this, it would be necessary to assure sufficient water supply and/or sewage treatment capacity to allow logical extensions of municipal utility systems.

3. Furthermore, the Orange County Open Space Plan has identified "Priority Growth Areas" within Woodbury. In particular, it has included the area along Smith Clove Road east of the New York State Thruway as one of these growth areas.
4. It is the intent of this Local Law to change the zoning designation of this 707 acre site from R-3A to R-2A. This proposed Local Law and other related laws are presently undergoing a SEQR review.

### SECTION III: REZONING AMENDMENT

The zoning of the following parcels is hereby changed from R-3A to R-2A.

All of the following parcels.

1. An approximately 307 acre parcel presently owned by Mr. Hiromi Shinya, being designated as tax map parcel number 3-1-11.
2. An approximately 400 acre parcel presently owned by Mr. Hiromi Shinya, being designated as tax map parcel number 3-1-12.5.

The land herein rezoned constitutes approximately 707 acres.

### SECTION IV: MAP

The Zoning Map of the Town of Woodbury is hereby amended to show such change. Attached hereto as Exhibit "A" is a map showing the zoning as it presently exists. The map attached as Exhibit "B" shows the zoning as it would be established by the adoption of this Local Law.

### SECTION V: EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State in Albany.

### SECTION VI: SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

**INTRODUCTORY LOCAL LAW #10 OF 2005**

**A LOCAL LAW DESIGNATING A 707 ACRE TRACT OF LAND ALONG  
TROUT BROOK ROAD BETWEEN SMITH CLOVE ROAD AND ROUTE 32  
FOR CONSERVATION CLUSTER DEVELOPMENT.**

**TOWN OF WOODBURY  
INTRODUCTORY LOCAL LAW #10 OF 2005**

**A LOCAL LAW DESIGNATING A 707 ACRE TRACT OF LAND ALONG  
TROUT BROOK ROAD BETWEEN SMITH CLOVE ROAD AND ROUTE 32 FOR  
CONSERVATION CLUSTER DEVELOPMENT.**

**SECTION I: TITLE**

This law shall be entitled: "A local law designating a 707 acre tract of land along Trout Brook Road between Smith Clove Road and Route 32 for Conservation Cluster Development."

**SECTION II: PURPOSE AND INTENT**

The Town Board is presently considering the adoption of a new section of the Town Zoning Law, to be numbered 310-31A, to create a Conservation Cluster Development Overlay District. That law, if enacted, would create an Overlay Zoning District, and authorize the Town Board, upon due examination, to designate one or more specific tracts of land for conservation cluster development. The Law further authorizes the Town Board to impose appropriate conditions on specific development projects, as part of the designation for Conservation Cluster Development. Subsequent to the designation of a tract of land for Conservation Cluster Development, the Planning Board would review applications for subdivision and site plan approval, pursuant to the provisions of Section 310-31A and related provisions of the Town Code.

It is the purpose of this Local Law to designate an approximately 707 acre site located along Trout Brook Road between Smith Clove Road and Route 32 for a Conservation Cluster Development. The parcel is more particularly described in the subsequent provisions of this Local Law.

**SECTION III: AMENDMENT**

The following parcels are hereby designated for conservation cluster development.

All of the following parcels.

1. An approximately 307 acre parcel presently owned by Mr. Hiromi Shinya, being designated as tax map parcel number 3-1-11.
2. An approximately 400 acre parcel presently owned by Mr. Hiromi Shinya, being designated as tax map parcel number 3-1-12.5.

The land so designated constitutes approximately 707 acres.

#### SECTION IV: ZONING MAP

The Zoning Map of the Town of Woodbury is hereby amended to indicate the above designation. Attached hereto as Exhibit "A" is a map showing the zoning as it presently exists (R-3A). Attached hereto as Exhibit "B" is a map showing the proposed rezoning to R-2A, which change is being proposed by a separate Local Law being considered herewith. Attached hereto as Exhibit "C" is a map showing the designation of the site for a Conservation Cluster Development. The map attached as Exhibit "C" shows the Conservation Cluster designation, which would attach to the property if this Local Law is adopted.

#### SECTION V: EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State in Albany.

#### SECTION VI: SEPARABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.