

Town of Enfield Site Plan Review Law Local Law # 2 of 2012

BE IT ENACTED by the Town Board of the Town of Enfield, County of Tompkins, State of New York, as follows:

ARTICLE 1 INTRODUCTORY PROVISIONS

Section 1.0 - SHORT TITLE - This local law shall be known as the “Site Plan Review Law,” or simply as the “Local Law” herein.

Section 1.1 - AUTHORITY - This Local Law is adopted pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law, § 10 of the Statute of Local Governments, and Town Law Article 16, including §§ 268 and 274-a therein.

Section 1.2 – PURPOSE - The purpose and intent of this Local Law is to: protect the value of land throughout the Town; to encourage orderly and beneficial development of land; to prevent the pollution of air and water; to assure the adequacy of proper drainage methods; to provide for the preservation of open spaces; to abate and mitigate nuisances; to encourage the preservation of natural features, topography, and resources; and to generally protect the health, safety and public welfare of the residents of the Town. This Local Law seeks to assure a balance between development rights and activities and their impacts and the effects of such development activities upon the residents and the environment of the Town, such as by and through the mitigation of potential negative impacts resulting from development activities in certain environmentally sensitive areas, as well as through identifying and minimizing certain adverse effects of unregulated development upon drainage, traffic, public utilities, surface and ground water quality, wildlife habitat and other natural and public resources, and the need for and provision of community services. The Town has determined that certain uses, while allowed, need to be evaluated relative to their suitability to and compatibility with natural site conditions and surrounding land uses. Thus, the intent of this Local Law is to promote the conservation, preservation, and development of the Town, while also helping to prevent and mitigate certain unwanted and deleterious impacts that may arise from the unregulated development of land for certain allowed uses. It is not the intent of this Local Law to allow or disallow any legal land uses, but instead to identify those which may have impacts that can or should be regulated to achieve the goals of this Local Law.

Section 1.3 – SUPERSESSSION - The provisions of Town Law § 274-a are expressly hereby superseded to the extent required to give effect to the terms, requirements, and procedures set

forth in this Local Law, particularly, but not exclusively, as pertains to the timelines for review and the scope of, and requirements for, plans, applications, and maps. No requirements or powers conferred upon the Town under the Town Law, or under any other laws of the State of New York, are waived or superseded by their inclusion or exclusion herein, including, but not limited to, the right of the Town to require the dedication of open spaces, recreational areas, or to require or accept payments in lieu thereof.

Section 1.4 DEFINITIONS – the following terms shall have the following meanings when set forth in this Local Law:

- A. ACE: the United States Army Corps of Engineers.
- B. ADU: Accessory Dwelling Unit is an additional living area independent of a primary dwelling unit that may be added to, created within, or detached from a single or two family dwelling. The ADU must provide for living, sleeping cooking and bathroom facilities. The ADU must be no larger than 800 square feet.
- C. Applicant: any person or entity responsible for submitting a Site Plan application for review by the Planning Board, or otherwise responsible for compliance with the terms, conditions, and requirements of this Local Law.
- D. Building: a structure wholly or partially enclosed within exterior walls, or within exterior party walls, and a whole or partial roof, affording shelter to persons, animals, or property.
- E. CEO: the code enforcement officer of the Town.
- F. DEC: the New York State Department of Environmental Conservation.
- G. DOT: the New York State or United States Department of Transportation.
- H. EAF: a SEQRA Environmental Assessment Form.
- I. EIS: a SEQRA Environmental Impact Statement.
- J. Flood Plain: Any jurisdictional or mapped flood Plain identified by the DEC or ACE.
- K. Planning Board: The Planning Board of the Town of Enfield.
- L. SEQRA: the New York State Environmental Quality Review Act, codified in the Environmental Conservation Law at Article 8, and including Title 6 of the New York Codes, Rules and Regulations, Part 617.
- M. Site Plan: a rendering, drawing, sketch, written plan, map, survey, or similar documents, prepared to specifications as required by and under this Local Law, which shows the arrangement, layout, and design of the proposed uses of land as shown upon such plan, together with supporting data and information as required by this Local Law, or as is reasonably requested or necessary in the discretion of the CEO and/or Planning Board, to render such plan complete and ready for review by the Planning Board.
- N. Structure: an assembly of materials located on or permanently affixed to the ground, directly or indirectly, usually including underground parts, such as a foundation, and above ground parts. A Building is one type of structure.

- O. Town: The Town of Enfield, in Tompkins County, New York.
- P. Town Board: The Town Board of the Town of Enfield.
- Q. Wetland: Any jurisdictional or mapped wetland identified by the DEC or ACE.

ARTICLE II

APPLICABILITY, EXEMPTIONS AND REVIEW STANDARDS

Section 2.0 - GENERAL AUTHORIZATION - The Town Planning Board is hereby authorized to review and approve, approve with modification, or disapprove Site Plans in accordance with the provisions, standards and requirements of this Local Law. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are related or incidental to a proposed Site Plan. Upon approval of the Site Plan, any conditions must be met before the issuance of any permits unless expressly stated otherwise upon the Site Plan or in any Planning Board approval of such Site Plan.

Section 2.1 - APPLICATION TO LAND AND PROJECTS -

- A. This Local Law applies to the following development and land activities:
 - 1. Construction or conversion of any large structure (4000 square feet or more) for commercial or industrial use.
 - 2. Industrial and commercial uses which occupy more than 1 acre of land
 - 3. Large Scale Solar see Appendix for requirements
 - 4. Auto Salvage Yards
 - 5. Motor Vehicle Sales
 - 6. Motor Vehicle Repair
 - 7. Convenience Stores with or without Fuel Sales
 - 8. Construction of three or more dwelling units, not including one accessory dwelling unit, on one parcel of land, regardless of the passage of time.
 - 9. Expansion of any non-agricultural Structure by 4000 square feet or more.
 - 10. Any project that includes the excavation, grading, or filling of one acre or more for non-agricultural purposes.
 - 11. Construction and/or erection of any communication or other tower more than 100' above ground level, except for temporary towers having negligible or no permanent impact on the environment for which permits have been granted.
 - 12. Construction or land disturbance activities whenever located within a wetland, Tompkins County mapped stream buffer or a mapped flood plain.
 - 13. Any proposed use or activity that involves a projected average daily water demand of 1,000 gallons per day or more (water usage rates can be estimated from Table B-3 of the 2014 Design

Standards for Intermediate-Sized Wastewater Treatment Systems

https://www.dec.ny.gov/docs/water_pdf/2014designstd.pdf).

14. Construction of any use or activity that involves the on-site disposal of solid waste, medical waste, petroleum, radioactive material, hazardous or toxic substances, hazardous waste, process wastes, including wastewater (except for the disposal of sewage through an on-site wastewater treatment system, or the agricultural use of animal manure, associated bedding material, and food processing wastes).
15. Construction of any solid waste management facility except for land application or composting facilities permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.
16. Surface land application of septage, sewage, or sludge except where permitted by NYSDEC for agricultural use within an agricultural district created pursuant to New York State Agriculture and Markets Law.
17. Construction of any facility that receives hazardous or toxic substances, hazardous waste, medical waste, or radioactive material generated off-site for treatment, storage, or disposal.
18. Establishment of any commercial or industrial use that includes the bulk stockpiling or storage of coal, cinders, deicing compounds, hazardous substances, hazardous wastes, toxic substances, fertilizers, herbicides and/or pesticides except in packaging for individual use or resale.
19. Establishing any use or activity involving the storage of manure, except for individual household or agricultural use, or at commercial establishments in packaging for individual use or resale.
20. Water extraction for bottled and/or bulk water sales.
21. Construction of subsurface facilities for solution salt mining; open-loop geothermal heating and cooling systems; or disposal of wastes including brine, natural gas exploration and/petroleum production waste, process waste, hazardous wastes, radioactive material, and wastewater.

B. The following development and land activities are exempt from the application of this Local Law:

1. Construction of single and two family dwellings, or an Accessory Dwelling Unit, unless located within a Wetland, Tompkins county mapped stream buffer or a mapped flood plain.
2. Land use activity that occurs in the course of normal agricultural or timbering operations as pursuant to sections 305-A and 308 of the Agriculture and Markets Law.

Section 2.2 - GENERAL CONSIDERATIONS -

A. The Planning Board's review of the materials submitted shall include, as appropriate, the following considerations:

1. The design, layout, and adequacy of access for fire and emergency vehicles, equipment, and personnel.

2. The design, layout, and adequacy of traffic and pedestrian access, and egress, and related issues of safety and circulation, both on-site and off-site. This includes consideration of parking and loading areas, and the design and location of signs.
3. The impacts on neighboring properties, and the mitigation of the same through the imposition of reasonable conditions and/or the use of landscaping, screening, and/or buffering.
4. The design, layout, and adequacy of building materials, landscaping, necessary utilities and appurtenances, and stormwater and drainage facilities.
5. The impacts to or upon the quality and quantity of available groundwater resources, streams, ponds, water bodies, and wetlands at or beyond the boundaries of the proposed use.
6. The impacts to or upon sensitive environmental area(s), such as Wetlands, streams, ponds, and other water bodies.
7. The need for and/or provision of parks, recreational areas, and open spaces, including payments in lieu thereof.
8. The design and layout of any lighting for the proposed project.
9. The proposed hours of operation for any commercial or business facility.

Section 2.3 - GENERAL STANDARDS OF REVIEW - In reviewing an application for approval of a Site Plan, the Planning Board will be guided by the existing characteristics and conditions of the site, its surroundings, and the character of the surrounding neighborhood, by any particular design objectives of the Applicant, and by the quality of the proposal. Additionally, and for each Site Plan, the Planning Board shall weigh and consider the general standards listed in this section, as applicable, and other specific concerns related to a particular site as may be identified by the CEO or the Planning Board.

A. Special attention shall be given to proper site drainage so the increased runoff of storm water resulting from the new construction will not drain onto neighboring properties or produce erosion, downstream flooding, or excessive turbidity in any nearby stream or body of water. Development on erodible soils, or on slopes of greater than 10%, shall be designed to minimize erosion both during and after construction.

B. No commercial or industrial building or use shall be located less than 50 feet from the lot line of another property owner.

- C. A landscaped buffer strip planted along lot lines, or at other locations, or other screening or fencing, may be required by the Planning Board.
- D. To preserve visibility at road intersections and enhance safety, no structures or fences or plantings should be permitted or occur within 50' of any intersection of any roadways, whether public or private roads.
- E. An adequate amount of off-street parking shall be provided for the proposed use, and no off-street parking space shall be less than 10' from the road right-of-way.
- F. All loading and unloading areas and outside storage areas, including areas for the storage of trash or dumpsters, that face or are visible from a public road or a neighboring property shall be screened from public view by vertical screening at least 6' in height. A landscape buffer, or a combination of landscaping and fencing, may be used to provide the required screening.
- G. On corner lots, within 200' of any intersection, or upon any grade or curve, the location of the driveway, roadway, or access/egress cuts, and the design and layout of the same, shall be approved by the Planning Board only after review and comment thereupon by the Town Highway Superintendent, Fire Department Chief, and if applicable, the County Highway Department and/or the NYSDOT. Shared driveways or accessways shall be subject to appropriate easements for all lots and owners, and, as appropriate, subject to the review and comments of the Town Highway Superintendent, and if applicable, the County Highway Department and/or the NYSDOT.
- H. Access and circulation plans for vehicular traffic, pedestrian traffic and public right of ways, including roadway and intersection design, traffic controls, signage and lighting, shall be adequate to handle expected traffic volumes, and shall be approved by the Planning Board only after review and comment thereupon by the Town Highway Superintendent, Fire Department Chief and if applicable, the County Highway Department and/or NYSDOT.
- I. Exterior lighting, if any, shall be designed and located so that it does not produce glare on adjacent properties and does not impede the vision of traffic on any adjacent roadways or access/egress routes.
- J. Approval of the type and design of any sewage disposal system shall be obtained from the Tompkins County Health Department.
- K. The impact of noise, traffic, odor, smoke, dust, heat, glare or electrical disturbance, or any nuisance, shall be considered in relation to surroundings and adequately mitigated.

L. Any proposed roadways, public or private, shall be built to specifications as required by the Town Highway Superintendent and/or DOT, taking into account the volume and types of expected local and pass through traffic. Roadway layouts shall be designed to provide for the appropriate extension of existing utilities and shall take into consideration topography, drainage, and public safety, and the proposed uses of the land to be served by such roads. All road layouts and designs are subject to the approval of the Town Highway Superintendent, and all public roadways shall require permanent dedication by easement or in fee, each in a form as approved by the Town.

M. Roadways shall intersect as nearly at right angles as possible, and in no case shall they intersect at an angle of less than 60°. Road grades at intersections shall not exceed 5% for a distance of 80 feet from the center of the intersection unless otherwise approved by the Town Highway Superintendent. In all other respects roadways shall comply with applicable laws, rules, and regulations of the Town, Tompkins County, and the State of New York, including the requirements of the DOT.

N. All natural features, such as streams and hilltops, shall be preserved whenever possible in designing and laying out any Site Plan. The Planning Board may require changes in the layout to assure that natural features will be preserved, undisturbed, and/or incorporated into the Site Plan and/or its design. Topsoil moved during the course of construction shall be sequestered and redistributed so as to provide, when possible, at least 6 inches of topsoil to all areas disturbed.

O.—Any soil disturbance of one acre or more may require a Stormwater Pollution Prevention Plan (“SWPPP”) and compliance with the DEC’s State Pollutant Discharge Elimination System (“SPDES”) permit requirements and conditions, in accordance with SPDES General Permit from Stormwater Discharges from Construction Activity, Permit # GP-0-10-001.

P. The simplicity, reliability and feasibility of the control measures proposed to prevent contamination and depletion of local groundwater resources shall be considered as well as the degree of threat to water quality and quantity if such control measures fail.

Q. A water well shall be located in compliance with the provisions of Appendix 5-B of the New York State Department of Health regulations (10 NYCRR Appendix 5-B) unless an applicable waiver or variance has been issued by the New York State Department of Health or Tompkins County Health Department. This means a well shall be located where it is not subject to seasonal flooding or surface water contamination, shall be located upgradient of any potential or known source of contamination, and the minimum horizontal separation distances from potential sources of contamination listed in Table 1 of Section 5-B.4 of Appendix 5-B of 10 NYCRR Part 5 shall be maintained.

Section 2.4 - EFFECT ON EXISTING USES -

A. This law does not apply to uses and Structures which are lawfully in existence as at the date this Local Law becomes effective. Any use or Structure shall be considered to be “in existence” as of the effective date of this Local Law if: (i) a building permit has been issued; and (ii) the improvements are fully constructed and completed within one year from the effective date of this Local Law; and (iii) a certificate of compliance or a certificate of occupancy is duly issued within said one year.

B. Any use which would otherwise be subject to this Local Law that has been discontinued for a period equal to or in excess of one year shall be subject to review pursuant to the terms of this Local Law prior to and before any prior or new use is resumed or commenced.

C. If any land is sold, assigned, subdivided, or transferred, whether in whole or in part, after such one year of disuse, then all so-called “grandfather rights” shall be and be deemed permanently extinguished.

Section 2.5 - RELATIONSHIP OF THIS LAW TO OTHER LAWS AND REGULATIONS - This Local Law in no way affects or impairs the provisions or requirements of other federal, state, or local laws and ordinances, or their applicable regulations. Whenever the circumstances of any proposed development require compliance with this or any other such law or regulation, the Planning Board shall attempt to integrate, as appropriate, Site Plan review with such other requirements, and/or this Local Law shall be considered an initial review procedure relative to other such laws and/or regulations. Where it is determined that there is a conflict with any other such law or regulation, the more restrictive requirements shall apply. All Site Plans, and reviews thereof, shall comply with any other applicable laws, regulations, and rules, including, but not limited to, the requirements of SEQRA.

ARTICLE III
APPLICATION AND REVIEW PROCEDURES

Section 3.0 - APPLICATION AND REVIEW PROCEDURES - Prior to undertaking any listed land use activity (or resuming such listed activity after the requisite period of discontinuance) a Site Plan review and approval by the Planning Board is required. Applicants for Site Plan review and approval should follow the recommended procedures related to the pre-application conference (sometimes known as a “sketch plan conference”), but all Applicants must comply with all other procedures and requirements of this Local Law.

A. Pre-application Conference: A pre-application conference may be held between the Planning Board and the Applicant to review the basic site design concept and to generally determine the information to be required for the Site Plan and its review. Applicants are

encouraged to arrange for a pre-application conference with the Planning Board and, as part of such conference, the Applicant may request a sketch plan review. Sketch plan reviews are an optional step and provide for a preliminary and non-binding review of a roughed-out sketch plan. Sketch plan review gives the Applicant the opportunity to informally present the project to the Planning Board, and allows the Planning Board and the Applicant to discuss any areas of concern involved with the proposed development, and/or to simplify issues in the later formal review stages. In order to accomplish these objectives, the Applicant shall provide the following if sketch plan review is requested:

1. A description and rough sketch showing the proposed plan.
2. A map of the area showing the parcels under consideration for Site Plan review, all adjacent properties, roads and other pertinent features.
3. A map of site topography, such as a USGS quadrangle or equivalent showing the proposed site. The Planning Board may at its discretion accept photos in lieu of this requirement.

B. Filing a Site Plan Application: Applications for Site Plan review shall be filed with the CEO and shall be in writing. All Town forms for the Site Plan review process shall be completed, a Site Plan survey drawn to scale shall be provided, together with the following documents, information, and details:

1. The name and address of the landowner of record and the Applicant, if not the same.
2. A surveyed identification map showing the location and orientation of the proposed development relative to the local road system, the scale of the drawing(s), a north arrow, the date of the survey or drawing, the gross acreage of the site or development area, an identification of existing buildings and land uses on the site and upon adjacent properties, and a depiction and layout of the proposed Structures, buildings, improvements, and land uses, including roads, access and egress ways, parking areas, landscaping, and buffer strips or screening.
3. The locations of any floodplain designated by the National Flood Insurance Program and the location of any Wetlands.
4. An indication of existing and proposed topography and drainage systems for the site, including the proposed stormwater management and drainage upon and from the site. Natural drainage ways shall be maintained whenever possible.

5. The proposed water source and sewage disposal system(s).
6. The location, size and type of any proposed site lighting and signs.
7. A landscaping plan, if any.
8. A brief statement describing: the project and the type of exterior building material to be used; disclosure as to whether any Structure or the project involves the storage or handling of hazardous materials or the use of any above or below ground storage tanks; whether or to what extent the proposal will create odors, smoke, noise, or dust and airborne particulates above ambient existing levels; whether the development or intended land use will have any potential impacts on the community including, but not limited to, physical, environmental, social and/or economic effects, or any other potential effects impacting the health, safety and/or general welfare of the community; a statement as to whether there are any easements or deed restrictions affecting the project or Site Plan; and a statement as to whether the project is in keeping with the character of the surrounding neighborhood and the Town's Comprehensive Plan.
9. A proposed roadway, walkway, traffic, and signage plan for access to and egress from the development or parcel(s).
10. A completed SEQRA environmental assessment form upon the forms provided by the CEO.
11. And, if in or within 500' of an agricultural district, an agricultural data statement pursuant to Article 25, § 305-a, of the New York State Agriculture and Markets Law.
12. The projected average daily water demand from existing and proposed on-site wells, and their location on the site plan survey with respect to property lines, existing or proposed water bodies, roads, buildings, and potential contaminant sources as listed in Table 1 of Section 5-B.4 of Appendix 5-B of 10 NYCRR Part 5.
13. The location of the premises and all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of stormwater, process wastes, wastewater, petroleum, hazardous substances and wastes, solid waste, and incidental wastes.
14. Spill Prevention Plan (if applicable) including: a complete description of the proposed use and operations; a list of toxic or hazardous chemicals to be used, handled, and/or stored; a description of how these chemicals will be used, handled, stored and

disposed of; and procedures for containing or cleaning up spills and notifying appropriate local and state officials.

15. A description of proposed storage facilities for hazardous wastes and provisions for the disposal of these wastes by licensed waste haulers (if applicable).

16. Location of the proposed use or activity in relation to the unconsolidated aquifers in the Enfield Creek Valley as determined by the United States Geological Survey in its Scientific Investigations Report 2019-5136.

C. Preliminary Review of Application: The CEO shall review all application materials and determine whether the application is substantially complete. If substantially complete, the CEO shall then forward, within five business days, the application to the Planning Board, together with any comments or recommendations, and the Planning Board shall consider or review the application at the next duly called meeting, but only so long as the materials are received by the Planning Board at least 10 business days before such meeting. If deemed necessary, both the CEO and the Planning Board may require additional information to complete its review. If the CEO determines the application to be incomplete, the CEO shall, within five business days, return the application to the Applicant and inform the Applicant of the deficiencies of the application.

D. Referral to County Planning Board: The CEO shall determine if the proposed action is subject to referral to the Tompkins County Planning and Sustainability Department in accord with Article 12-B, §§ 239-l, -m, and/or -n of the General Municipal Law, and the guidelines and agreements of or with the Tompkins County Planning and Sustainability Department. If referral is required or desired, the CEO shall submit the materials, together with any SEQRA documents, to the County Planning and Sustainability Department as soon as is practical.

E. State Environmental Quality Review: The Planning Board shall comply with SEQRA when considering Site Plan reviews and approvals.

F. Review and Decision:

1. Review and Decision Without Public Hearing: Within 62 days following the date that the Planning Board receives a completed application and Site Plan, the Town Planning Board shall render a decision to approve, approve with conditions, or deny the Site Plan unless the Town Planning Board elects to conduct a public hearing. Any

such application shall be deemed received and the 62-day time period shall commence at the time the completed application and Site Plan are first presented to the Planning Board at a duly called public meeting. The 62-day time period may be extended upon consent of both the Applicant and the Planning Board, and such 62-day time period shall be deemed extended to the extent reasonably necessary to comply with and complete any required SEQRA reviews. If the Town Planning Board fails to render a decision within said 62-day period, as may be herein extended, the Site Plan shall be considered approved.

2. Review and Decision With Public Hearing:

- a. The Planning Board may conduct a public hearing regarding the Site Plan at its discretion. If a public hearing is desired or required, it shall be scheduled within 45 days of receipt of the completed application from the CEO. The Chair of the Planning Board shall notify the Town Clerk to post notice of the public hearing in accordance with Town Policy.
- b. For all public hearings, the Planning Board shall mail notice of public hearing to the Applicant at least 15 days prior to the date of the hearing (or at least 14 days if the hearing is on the SEQRA review). The Applicant shall mail written notice of the hearing to all landowners within 2500 feet of the proposed site at least 10 days before such hearing (or at least 14 days if the hearing is on the SEQRA review), and shall publish at least one notice of public hearing at least 5 days (or at least 14 days if the hearing is on the SEQRA review) before the hearing in the official newspaper of the Town.
- c. The Town Planning Board shall render a decision on the Site Plan within 62 days of the close of the public hearing, unless such 62-day time period is extended upon consent of both the Applicant and the Planning Board; and such 62-day time period shall be deemed extended to the extent reasonably necessary to comply with and complete any required SEQRA reviews. If the Town Planning Board fails to render a decision within said 62-day period, as may be herein extended, the Site Plan shall be considered approved.

SECTION 3.1 - WAIVER OF SITE PLAN REQUIREMENTS -

A. The Planning Board may by resolution except or exempt an Applicant from any one or more of the requirements of this Local Law by waiver, except for the landowner and public notice requirements . All requests for a waiver from any requirements set forth in this

Local Law shall be made by the Applicant in writing and shall contain a statement as to the grounds upon which the Applicant relies for requesting the waiver, including all allegations of any facts on which the Applicant will rely. Where the Planning Board finds that a waiver of certain requirements is justified then a waiver may be granted, provided, however, that no waiver shall be granted unless the following conditions are met:

1. The Planning Board finds and records in its minutes that granting the waiver is justified and would be in accord with the intent and spirit of this Local Law, and is otherwise not adverse to the best interests of the community.
 2. There are special circumstances involved in the particular case and denying the waiver would result in undue hardship to the Applicant, provided that such hardship has not been self-imposed.
 3. The waiver requested and/or granted is the minimum degree of variation from the requirements of this Local Law as is necessary to accomplish the relief found appropriate in connection with such waiver application.
- B. The Planning Board may condition the granting of any waiver upon any one or more reasonable conditions or requirements.

SECTION 3.2 – FILING AND WRITTEN DECISION OF THE PLANNING BOARD - All determinations made under, or in relation to, this Local Law shall be in writing and a full written record of the Planning Board minutes, resolutions, and/or decisions, together with all documents pertaining to the application and review, shall be filed in the office of the CEO, and a copy shall be mailed to the Applicant.

ARTICLE IV SECURITY, BONDING, AND DEDICATION REQUIREMENTS

SECTION 4.0 – PERFORMANCE BONDS AND OTHER SECURITY - Whenever any permanent infrastructure and improvements are required by any Site Plan, a performance bond, irrevocable letter of credit, escrowed payment and escrow agreement, or other security sufficient to cover the full cost of the same, as estimated by the Planning Board, shall be furnished to the Town by the Applicant or owner whenever the Planning Board, in its sole discretion, without recourse, shall require the same. The requirements of Town Law §§ 274-a(7) and 277(9) shall apply to this requirement whenever so imposed.

SECTION 4.1 – DEDICATED INFRASTRUCTURE AND IMPROVEMENTS - Whenever any permanent or temporary infrastructure or improvements are proposed to be subject to dedication to the Town, whether in fee, by easement, right-of-way, or by or through an offer

of cessation, or otherwise, including, but not limited to streets, highways, sidewalks, stormwater facilities, parks, recreation areas or trails, etc., the approval of the Town Board as to the method and manner of construction shall be required, together with approval by the Town Board and the Town Attorney as to the method, means, terms, and form of dedication. In all cases, all filing or other fees incurred in such act(s) of dedication shall be a cost to the Applicant.

ARTICLE V MISCELLANEOUS PROVISIONS

SECTION 5.0 - CODE ENFORCEMENT OFFICER - The Town Board shall appoint a CEO to carry out the duties assigned by this Local Law, including those of review and enforcement. The CEO, or his or her designee, shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. The CEO, or his or her designee, shall not issue building permits for construction or any certificates of occupancy or compliance unless the requirements of this Local Law have been met, including any conditions imposed upon any site or Site Plan. If the Planning Board has approved a Site Plan with conditions, all conditions must be met before the CEO issues a building permit, or any certificate of occupancy or compliance, unless the Planning Board condition or approval expressly states otherwise.

SECTION 5.1 - CONSULTANT REVIEW - The CEO and Planning Board may consult with and obtain assistance and advice from such agencies or experts as they deem necessary for any Site Plan review, including, without limitation, Fire Chief, the Town Highway Superintendent and the DOT, the Town Board, the Town Engineer, the Town Attorney, the County Planning Department, the County Health Department, other local county officials, representatives of federal and state agencies, and architects, engineers and attorneys. All consultant review costs shall be paid by the Applicant to the extent legally required or allowed.

SECTION 5.2 - FILING FEES & DEVELOPER'S AGREEMENTS - An application for Site Plan review and approval shall be accompanied by a non-refundable fee* as periodically set or amended from time to time by resolution of the Town Board. An additional fee equal to the actual costs of Site Plan or SEQRA review shall also be charged to the Applicant whenever required or allowed by law, including the fees allowed by 6 NYCRR, Part 617, § 617.17. The Planning Board may require, prior to the commencement of review or preparation of an EIS, that a deposit be made to the Town in an amount reasonably estimated to cover the anticipated amount of costs, disbursements, and fees as may be incurred in relation to the EIS. All fees and charges payable by the Applicant or developer shall be reasonably determined in accord with law. In lieu of periodic fee calculations and payment requirements, an

Applicant or developer may sign a developer's agreement to provide for an escrow reserve account to fund and more efficiently proceed through the Site Plan review process.

SECTION 5.3 – ENFORCEMENT, VIOLATION AND PENALTIES – Each and all of the following provisions shall be applicable in relation to any violation of any of the terms, conditions, or requirements of this Local Law by any act, or by any failure to act:

A. When any term, provision, or requirement of this Local Law is violated, the CEO may issue a written notice of violation and Order To Remedy to the person or entity in violation hereof. Such notice of violation shall contain the name and address of the person or entity alleged to have violated this Local Law, the address, when available, or a description of the building, structure or parcel upon which the violation occurred or is occurring, a brief statement specifying the nature of the violation, a statement of the fine or penalty that may or could be assessed against any person or entity to whom the notice of violation is directed if they do not comply with the Order of Remedy, and a clear statement identifying when a civil or criminal proceeding will commence if they do not comply with the Order of Remedy. The election by the CEO to issue a notice of violation and Order To Remedy does not preclude the sooner, simultaneous, or later issuance of civil or criminal process alleging a violation of this Local Law.

B. The Town Highway Superintendent, the CEO, and any New York State peace or police officers are hereby authorized to issue and serve civil papers and appearance tickets with respect to any violation of this Local Law.

C. The CEO may issue a stop work order for or in relation to any violation of this Local Law. Any person or entity receiving a stop work order shall be required to halt all clearing, grading, and construction until the CEO or a court of competent jurisdiction allows work to re-commence.

D. In addition to any other right or remedy allowed by law or in equity, the Town may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision or requirement of this Local Law.

E. All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this Article. Each and any misdemeanor referenced hereunder shall be deemed an unclassified misdemeanor. The following civil and criminal fines and penalties shall apply to any violation of the terms, conditions, and requirements of this Local Law:

1. First Violation: Any person or entity that violates any of the provisions of this Local Law shall be (i) guilty of a violation and subject to a fine of three to five times the Building Permit Application Fee or (ii) subject to a civil penalty three to five times the Building Permit Application Fee to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect or refusal shall continue.

2. Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any person or entity that commits any second violation shall be (i) guilty of a violation subject to a fine of eight to ten times the Building Permit Application Fee, or (ii) subject to a civil penalty of eight to ten times the Building Permit Application Fee to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

3. Third and Subsequent Violations: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any person or entity who commits a third or subsequent violation of this Local Law shall be (i) guilty of an unclassified misdemeanor and subject to a fine of thirteen to fifteen times the Building Permit Application Fee, and/or a period of incarceration not to exceed 120 days, or both, or (ii) subject to a civil penalty of thirteen to fifteen times the Building Permit Application Fee, to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate unclassified misdemeanor for each week that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each week that such violation, disobedience, omission, neglect, or refusal shall continue.

F. Upon any violation of this Local Law by any person or entity, the Planning Board and the CEO shall decline and refuse to issue any approvals, endorsements, certifications, building permits, certificates of occupancy, certificates of compliance, and any similar or other document or approval in relation to the lands affected until the terms, conditions, and requirements of this Local Law have been met or such person or entity is otherwise in compliance with this Local Law.

G. Any person or entity that is in violation of this Local Law may be required to restore any land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may commence any one or more civil proceedings in the Town Court, or any other court of competent jurisdiction, to compel, permit, or recover the costs of such restoration.

H. Each and all remedies and rights provided to the Town under this Local Law are and shall be deemed cumulative. The Town's pursuit of any one right or remedy does not effect a waiver or an election of remedies relative to any other right, action, or remedy, and the Town may thereafter pursue or continue to pursue any other right or remedy it may have in law, equity, or in admiralty. The rights and remedies herein stated are not the exclusive rights and remedies of the Town. The Town reserves all rights to seek compliance or enforcement, including pursuant to and under Town Law § 268 and Executive Law § 362.

SECTION 5.4- CONSTRUCTION - The term "shall" is mandatory, and the terms "may" or "should" are permissive. Any word that is gender-referenced shall be construed to include all genders and the neuter. Capitalized words shall have the meanings ascribed to them whenever the meaning or context thereof so admits or requires. Defined words and phrases that are not capitalized shall be presumed to be capitalized and deemed defined words and phrases, unless the context thereof admits or requires otherwise.

SECTION 5.5 - PARTIAL INVALIDITY - If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application hereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provisions of this Local Law that are directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed, the remainder of this Local Law shall remain in force and effect, and the Town Board hereby declares that it would have enacted this Local Law, or the remainder hereof, even if, as to particular provisions and persons or circumstances, such portion is severed or declared invalid or unenforceable.

SECTION 5.6 - LIMITATION OF TOWN LIABILITY AND INDEMNIFICATION - The Town, and its officers and agents, shall not be liable or responsible for any injuries to persons or damages to property or rights due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was caused by a willful or intentional act of the Town or its officers or agents. This provision

shall be construed and applied to the maximum extent permitted by law, and does not create any theory or claim of liability where none exists at law or in equity.

SECTION 5.7 - ARTICLE 78 - Any person aggrieved by any decision or determination (except for an informal or advisory opinion) of the Planning Board, the CEO, or any public official, officer, department, board, or bureau of the Town, may apply to the Supreme Court for review by proceeding under Article 78 of the Civil Practice Law and Rules. Such petition or request for review shall be made within 30 days of the decision or determination so appealed from, and this Local Law does not create any right or remedy under said Article 78 where none otherwise exists or is recognized in law, equity, or admiralty.

SECTION 5.8 - EFFECTIVE DATE - This Local Law shall take effect immediately upon filing with the New York State Secretary of State.