

Appendix F

Site Plan Review (Zoning Ordinance) Models

[Site Plan Review and Approval Procedures \(Town of Ithaca, NY\)](#)

[Model Site Plan Review Local Law for Cattaraugus County, NY](#)

*Town of Ithaca, NY
Tuesday, January 13, 2015*

Chapter 270. ZONING

Article XXIII. Site Plan Review and Approval Procedures

§ 270-182. Purpose.

The purpose of site plan review is to provide for the review and approval of development plans to ensure that land development occurs in harmony with surrounding uses, without adversely impacting neighboring parcels, property values, public facilities, infrastructure or the natural environment.

§ 270-183. Site plan required prior to building permit or certificate of occupancy or certificate of compliance.

[Amended 5-12-2014 by L.L. No. 9-2014]

Before a building permit or certificate of occupancy or certificate of compliance can be issued for any of the activities for which site plan approval is required, a site plan must be approved by the Planning Board in accordance with these and other applicable provisions.

§ 270-184. Applicability.

The requirements set forth in this article shall apply to all activities or developments that are referred to elsewhere in this chapter as requiring a site plan approval. In addition, and supplementing such provisions, the requirements of this article shall also apply to the following actions except as to those actions specifically exempted, or for which alternative specific site plan review and approval requirements are established, elsewhere in this chapter:

- A. All new commercial, industrial or institutional development.
- B. All new multifamily housing.
- C. Any modification of existing commercial, industrial, institutional or multifamily buildings, for which no previous site plan exists.
- D. Any expansion of existing commercial, industrial, institutional or multifamily buildings which involve an increase in the gross floor area of an existing building by more than 10% in the aggregate since any previous site plan approval.
- E. Any conversion of an existing residential structure to a nonresidential use (except as may have occurred in connection with a home occupation established in conformity with the provisions of this chapter).
- F. Any conversion of an existing nonresidential structure into a residential structure containing three or more dwelling units.
- G. Any modification to an existing residential structure which increases the number of dwelling units in the building to three or more dwelling units.

- H. Any change of an existing nonresidential building from one type of use specified in this chapter to another (e.g., conversion of a commercial structure to an industrial facility or conversion from a warehouse to a restaurant).
- I. Any other modification to any facility or structure not set forth in the preceding subsections, for which final site plan approval was or is presently required by the terms of this chapter or any modification to any previously approved site plan, except as otherwise authorized below.

§ 270-185. Procedure.

- A. The site plan process incorporates three successive stages: a) sketch plan review, b) preliminary site plan approval, and c) final site plan approval. Final site plan approval is required in all cases prior to the issuance of a building permit or certificate of occupancy or certificate of compliance. The sketch plan review is at the option of the applicant except as may be required by the Director of Planning if the proposed project is complex, has significant potential effects on the environment, or if other conditions exist such that a sketch review would be beneficial to the applicant or the Town.
[Amended 5-12-2014 by L.L. No. 9-2014]
- B. Sketch plan review. The sole purpose of sketch plan review is to review generally and informally the proposed project, advise the applicant as to whether it is reasonable to anticipate a positive response to a formal application, and to highlight any concerns that may be readily apparent to the Planning Board. No vote of approval or disapproval shall be taken with respect to a sketch plan.
- C. Preliminary site plan review. An applicant may, at his or her discretion, apply for preliminary site plan approval. Further, if the Planning Board determines that an application for final site plan approval is insufficient for an affirmative decision, the Board may grant preliminary site plan approval with such conditions and restrictions as are permitted by § 274-a of the Town Law or any similar or successor statute.
- D. Formal application.
 - (1) Unless other requirements of this chapter govern (e.g., the procedures for creation of Planned Development Zone) the applicant shall make formal application for site plan approval by submitting, at a minimum:
 - (a) One completed and signed development review application.
 - (b) Applicable application fees.
 - (c) Deposit of review fees.
 - (d) One fully completed and signed short environmental assessment form, Part I (SEAF), or long environmental assessment form, Part I (LEAF), whichever is required.
 - (e) Estimate of costs of site improvements (excluding cost of land acquisition and professional fees) to be prepared (preferably) by a licensed professional engineer.
 - (f) Four full-size dark-line prints of the site plan and 25 reduced copies of all sheets of the plan (the reduced copies to be no larger than 11 inches by 17 inches) with all required information.
 - (g) All other information required by this chapter or other laws, rules or regulations for site plan approval.
 - (2) The application for site plan approval shall not be deemed complete until all of the above items are received by the Town Planner and the requirements of SEQR have been met.
- E. Upon receipt of a complete application, the Planning Board shall hold a public hearing in accordance with the provisions of Town Law § 274-a or any similar or successor applicable statutes and shall render a decision approving, approving with conditions, or disapproving the site plan.

- F. In making its decision, the Planning Board shall have the power to impose conditions and restrictions as authorized by § 274-a of the Town Law or any similar or successor statute.
- G. If preliminary site plan approval is granted, when the developer applies for final site plan approval the same procedures shall again be utilized, except that if the final site plan is in substantial agreement with the site plan that received preliminary site plan approval, no further action under SEQR shall be required. If the final site plan differs significantly from the preliminary site plan, it shall be treated as a new application, including compliance with applicable SEQR requirements.
- H. In reviewing the final site plan application following preliminary site plan approval, the Planning Board shall, in the absence of significant new information, confine its review to determining whether the final plan a) conforms to the preliminary plan, b) complies with any conditions imposed by the Board in granting preliminary approval, and c) complies in all other respects with the provisions of the Town Law and this chapter.
- I. The owner and applicant shall be bound by the final site plan as approved by the Planning Board, and all construction and development shall occur only in accordance with the finally approved site plan, unless specifically otherwise authorized by the provisions of this chapter.

§ 270-186. Site plan requirements.

The site plan shall include the following items, and such additional items as may be reasonably requested by the Planning Board in order to fully and adequately review the application for approval of the site plan or other permit or authorization being sought, which requirements may be articulated on one or more checklists supplied to applicants for site plan approval or modification. Without limiting the authority of the Planning Board or other reviewing board of the Town with respect to additional items, the minimum items to be included are set forth below with respect to each type of site plan being reviewed.

- A. Sketch plan requirements. The sketch plan shall include:
 - (1) General location in the Town of the proposed development.
 - (2) Approximate boundaries of parcel(s) involved.
 - (3) Existing land use and proposed land use.
 - (4) Approximate location of existing and proposed buildings or other significant structures.
 - (5) Approximate location of adjacent or nearby highways.
 - (6) General topography of project area.
 - (7) General indication of potentially significant natural or cultural features on or adjacent to the site (e.g., wetlands, creeks, steep slopes or historic structures).
 - (8) Existing land uses of immediately adjacent properties.
 - (9) Written explanation of the character and purpose of the proposed development including the type and density of development, water and sewer systems proposed, and general timetable for the development.
- B. Preliminary site plan requirements. The preliminary site plan shall include:
 - (1) Name and address of all owners of the property and name and address of all persons who have an interest in the property, such as easements or rights-of-way.
 - (2) Key map, when more than one sheet is required to present site plan.
 - (3) Vicinity map showing the general location of the property, one inch = 1,000 feet or one inch = 2,000 feet.

- (4) Name of project, which shall not duplicate the name of any other project or subdivision in the county.
- (5) Name and seal of each registered land surveyor(s), engineer(s), architect(s) or landscape architect(s) who prepared any of the site plan materials, including the topographic and boundary survey, drainage plans, etc.
- (6) Date of site plan and any related documentation, and dates of any applicable revisions.
- (7) Map scale (one inch = 50 feet or one inch = 100 feet) in bar form and North point.
- (8) Name of Town, county and state.
- (9) Exact boundary lines of the tract, indicated by a heavy line, showing location and description of all monuments, giving property metes and bounds to the nearest 1/10 foot, angles to the nearest minute, and at least one bearing.
- (10) Location of any natural and cultural features within and immediately adjacent to the site including but not limited to streams, lakes, floodplains, ponds, wetlands, structures or sites listed, or eligible for listing, on the state or national registers of historic places, woodlands, brushlands, significant natural habitats, rare plants, viewsheds and unique natural areas, or other features pertinent to review of the proposed project.
- (11) Location, size, and use of all existing structures, parking areas, access drives, off-street loading areas, signs, lighting, pedestrian or bicycle facilities, landscaping, and other existing features pertinent to plan review.
- (12) Location, size, proposed use, design, and construction materials of all proposed structures, including floor plans, elevations from all four sides of all significant structures showing exterior configuration, dimensions, finishes, fenestrations, colors and other usual building details.
- (13) Location, design, dimensions and construction materials of all proposed roads, sidewalks, bike paths, parking areas, fences, retaining walls, and screening.
- (14) Size, location, height, design, and construction materials of all proposed signs and exterior lighting, including type of lighting fixtures and amount and area of illumination of any proposed lighting.
- (15) Location, design, and construction materials of all proposed pedestrian and bicycle facilities.
- (16) Landscaping plan and planting schedule showing locations, species, and size of proposed plantings, and existing landscaping to be retained, including also location and proposed design of any buffers.
- (17) Location, design, and construction materials of all proposed water and sewage facilities.
- (18) Locations of any existing or proposed fire and other emergency zones, including the location of fire hydrants.
- (19) Location, name, and dimensions of each existing highway and alley and each utility, drainage, or similar easement within, abutting, or in the immediate vicinity of the proposed project site.
- (20) Existing and proposed site topography represented by contour lines with intervals as required by the Planning Board, but not to exceed five feet, including a grading plan describing the volumes of cut and fill materials and their composition, and including elevations of proposed buildings, signage, lighting, and other features.
- (21) Drainage plan, showing of existing and proposed drainage patterns, including a description of method used for analysis, the calculation of drainage area above point of entry for each watercourse entering or abutting the site, and proposed method of on-site retention if required, and details of any drainage improvements to be made. Generally the method of analysis shall be approved by the Director of Engineering and shall assume that, unless the Planning Board determines otherwise for good cause shown, that the rate of surface and subsurface run-off from the project site will not increase during or after construction of the project.

- (22) Border lines bounding the sheet, one inch from the left edge and 1/2 inch from each of the other edges. All required information, including signatures, seals, dates and other information shall be within the border lines.
 - (23) Accurate outlines and descriptions of any areas to be dedicated or reserved for public use or acquisition, with the purposes indicated thereon, and of any areas to be reserved by deed covenant for common uses of all property owners, tenants, or other users of the property in the project.
 - (24) The plan and profile of each proposed highway in the development, with grade indicated, drawn to a scale of one inch = 50 feet horizontal, and one inch = five feet vertical, on standard plan and profile sheets. Profiles shall show accurately the profile of the highway or alley along the highway center line and location of the sidewalks, if any.
 - (25) Reference on the site plan to any separate instruments, including restrictive covenants, which directly affect the land in the project.
 - (26) Names and addresses of all property owners of all parcels abutting the site, or within 500 feet of the perimeter boundary of the site, including owners of easements or rights-of-way, together with tax parcel numbers for all such owners.
 - (27) Estimate of the cost of improvements (excluding the purchase cost of land) to be prepared by a licensed professional engineer or other qualified professional satisfactory to the Planning Board.
 - (28) Three dark-line prints of the proposed site plan and 25 copies of all sheets of the proposed site plan in reduced format (no larger than 11 inches by 17 inches) and copy of all other items required above (except development review application).
 - (29) A certificate signed by the owner and, if applicable, any contract vendee to the effect that i) the owner owns the land, ii) the owner or contract vendee caused the land to be surveyed and the site plan to be prepared, iii) the owner (or, if applicable, the contract vendee) agrees to construct the project in the manner represented by the finally approved site plan and all related approved application documents, and iv) the owner (or, if applicable, the contract vendee) makes any dedications indicated in any of the site plan documentation and agrees and guarantees to construct any required infrastructure elements set forth on the finally approved site plan.
 - (30) Where required by Town Code Chapter **228**, a stormwater pollution prevention plan or erosion and sedimentation control plan meeting the requirements of Chapter **228**.
[Added 2-11-2008 by L.L. No. 4-2008]
- C. Final site plan requirements. The final site plan shall include:
- (1) All of the items set forth above for preliminary site plan approval, modified if necessary to comply with any conditions imposed as part of the preliminary site plan approval process.
 - (2) One original set of the final site plan drawings on Mylar, vellum or paper, signed and sealed by the registered land surveyor(s), engineer(s), architect(s) or landscape architect(s) who prepared the site plan materials, to be retained by the Town, and two sets of paper copies of the final site plan drawings.
 - (3) Record of application for and approval status of all necessary permits from county, state, and/or federal agencies with copies of all necessary permits or approvals to be provided prior to issuance of any certificate of occupancy or certificate of compliance.
[Amended 5-12-2014 by L.L. No. 9-2014]
 - (4) Design development drawings for all buildings and construction details of all other proposed structures, roads, water/sewer facilities, and other improvements, including, but not limited to, specifications for water lines, including locations and descriptions of mains, valves, hydrants, appurtenances, etc., and profiles and specifications for sanitary sewers and storm drainage facilities, including locations and descriptions of pipes, manholes, lift stations, and other facilities.
 - (5) A certificate signed and sealed by the mortgagee(s), if any, to the effect that the mortgagee consents

to the site plan, the construction of the project as shown, and the dedications and restrictions, if any, shown on or referred to on the site plan.

§ 270-187. Waiver of requirements.

The Town Board in those circumstances where a site plan is required for Town Board review, and the Planning Board in those circumstances where a site plan is provided for Planning Board review, may waive one or more items (e.g., topography) otherwise normally required to be shown on the site plan when the applicable board determines that the circumstances of the application do not require a full site plan for adequate consideration of the applicant's proposal.

§ 270-188. Considerations for approval.

The Planning Board's review of a site plan shall include as appropriate, but shall not be limited to, the following considerations:

- A. Adequacy, arrangement, and location of vehicular access and circulation, including intersections, road widths, pavement surfaces, off-street parking and loading areas, and traffic controls.
- B. Adequacy, arrangement, and location of pedestrian and bicycle traffic access and circulation, control of intersections with vehicular traffic, and appropriate provisions for handicapped persons.
- C. Adequacy, location, arrangement, size, design, and general site compatibility of buildings, lighting, signs, open spaces, paved areas, outdoor waste disposal facilities, and contiguity of open spaces.
- D. Adequacy, type, and arrangement of trees, shrubs, and other landscaping, including those on site and those constituting a visual and/or noise-detering buffer between the applicant's and adjoining lands, including the retention of existing vegetation of value to the maximum extent possible.
- E. In the case of a residential property, and in the case of other properties where appropriate, the adequacy and utility of open space for playgrounds and for informal recreation.
- F. Compatibility of the project with the surrounding neighborhood, including protection of adjacent properties and the general public against noise, glare, unsightliness, or other objectionable features.
- G. Adequacy of stormwater drainage, water supply, sewage disposal facilities and other community infrastructures and services.
- H. Adequacy of fire lanes and other emergency provisions.
- I. The effect of the proposed development on environmentally sensitive areas including but not limited to wetlands, floodplains, woodlands, steep slopes, watercourses or bodies, viewsheds, unique natural habitats, and on other open space areas of importance to the neighborhood or community.
- J. The effect of the proposed development on any historic structures listed or eligible for listing on the National Register of Historic Places.
- K. The need for, and the adequacy of, any natural or man-made buffers.
- L. Whether the design of the project minimizes the increase of impervious surfaces on the site.
- M. Compliance with the Town's Comprehensive Plan, Zoning Ordinance, Subdivision Regulations, Water Resources Ordinances, if applicable, Outdoor Lighting Law,^[1] and any other applicable laws, rules, requirements, or policies.

[Amended 10-16-2006 by L.L. No. 12-2006]

[1]: *Editor's Note: See Ch. 173, Outdoor Lighting.*

§ 270-189. Limitations on construction.

No site plan shall be approved which provides for construction or other disturbance of land in environmentally sensitive areas, including but not limited to, wetlands, watercourses, steep slopes, unique natural areas, or rare plant or animal habitats, unless the applicant demonstrates with professional evidence reasonably satisfactory to the Planning Board that such construction may occur without adverse environmental effects upon such areas. Nothing in this subsection is intended to permit construction or other activities in areas where the same are prohibited or regulated by other laws or regulations of the federal, state, county, or local government.

§ 270-190. Reservation of parkland on site plans containing residential units.

If the proposed project includes dwelling units, the Planning Board may, in accordance with the provisions and requirements of Town Law § 274-a or any similar or successor law, require a park or parks to be shown on the site plan, or, to the extent permitted by § 274-a, monies in lieu of parkland.

§ 270-191. Modifications of site plans.

A site plan that has received final site plan approval may be modified upon the application of the owner for such modification. Such application shall be in accordance with the provisions of this article and the procedures applicable to such application shall be the same as are applicable to an initial application for site plan approval. Notwithstanding the foregoing, Planning Board approval of a modification shall not be required:

A. If the modification does not involve:

- (1) Construction of an addition of more than 1,000 square feet of enclosed space whether on one or more stories; nor
- (2) Construction or relocation of more than three parking spaces nor construction or relocation of any parking spaces to an area that is not adjacent to the original planned parking area; nor
- (3) Construction, alterations, or renovations affecting the exterior of a building or the site anticipated to cost more than \$20,000; nor
- (4) Construction, alteration, or renovation of the interior of a building involving a change in occupancy or use; nor
- (5) Enlargement of an existing or previously approved building that involves an increase of square footage of more than 15% of the existing square footage of the existing or previously approved building; nor
- (6) Reduction of an existing or previously approved building that involves a decrease of square footage of more than 15% of the existing or previously approved building; nor
- (7) Alteration of traffic flows and access nor a significant increase in the volume of traffic; nor
- (8) A significant (in the judgment of the Director of Planning) change in the aesthetic appearance of any structure or site plan element including landscape and lighting details from that presented at the time of the prior approval; nor
- (9) A change in the impacts of the project on surrounding properties, such as an increase in noise, water run-off, light illumination, or obstructions to views; nor
- (10) Violation of any express conditions (including, without limitation, buffer zones, setbacks, and similar restrictions) imposed by the Planning Board in granting prior site plan approval, or

B. If the modification does not involve a movement or shift of a location of one or more buildings more than

two feet laterally or six inches vertically from the location or elevation shown on the final site plan where:

- (1) Such shift does not alter proposed traffic flows or access; and
 - (2) Such shift does not directly violate any express conditions (including, without limitation, buffer zones, setbacks, etc.) imposed by the Planning Board in granting prior site plan approval.
- C. The numerical criteria for the exceptions from the requirement of obtaining Planning Board approval are an aggregate maximum [i.e., if a seven-hundred-square-foot addition is constructed without obtaining Planning Board approval pursuant to Subsection **A(1)** above, construction of a second addition larger than 300 square feet would require Planning Board approval of a modified site plan].
- D. This waiver of the requirement of Planning Board approval is not intended to permit construction in violation of any other provision of this chapter including setback, side yard, and similar regulations, nor the requirement to obtain a building permit in those circumstances when otherwise required by the terms of this chapter or by the Building Code.
- E. A demolition, or a proposed demolition, of an existing building, or of a previously approved building on a previously approved site plan, is a modification of a site plan subject to the terms of this section.

§ 270-192. Letter of credit.

If the Planning Board determines it is necessary to ensure that all items on the site plan that are needed to provide for adequate traffic flow, utilities, and other similar infrastructure items, are constructed in accordance with the approved final site plan and any other pertinent specifications and requirements, no building permit shall be issued for a project with an approved final site plan until the applicant has furnished to the Town Engineer an irrevocable letter of credit in an amount to be recommended by the Town Engineer and approved by the Planning Board to ensure such construction. In determining whether to require such a letter, the Planning Board shall find that such infrastructure is so integral to the project that its construction must occur in order to provide for a safe and useful environment for the community and the occupants and users of the project. The Planning Board may, in its discretion, accept in lieu of a letter of credit other evidence or promise of completion of required facilities for the site if it determines that such other evidence adequately ensures such completion. Nothing in this section shall alter any other requirement for letters of credit related to construction of facilities intended to be dedicated to the Town.

§ 270-193. Completion of improvements.

[Amended 5-12-2014 by L.L. No. 9-2014]

No final certificate of occupancy or certificate of compliance shall be issued until all improvements shown on the final site plan as approved by the Planning Board, reasonably necessary to the proper and safe operation and occupancy of any completed facilities, are installed or until a sufficient performance guarantee, such as a letter of credit, has been provided to the Town for improvements not yet completed. The need for, and sufficiency of, such performance guarantee shall be determined by the Town Engineer after consultation with the Building Inspector or other persons designated by the Planning Board. The Planning Board may waive the requirement for such performance guarantee if, in its discretion, it determines that the guarantee is not needed.

§ 270-194. Expiration of site plan approval.

- A. Except when a rezoning has occurred based upon a preliminary or general site plan any approval of a preliminary site plan may be revoked by the Planning Board, after a public hearing and upon written notice in person or by mail to the applicant:
- (1) If a fully complete application for final site plan approval has not been submitted to the Planning Board within 18 months of the date preliminary approval was granted, or

- (2) If an application is submitted within such eighteen-month period, such application is not diligently prosecuted by the owner to enable the Planning Board to grant final site plan approval within 24 months of the date preliminary approval was granted.
- B. The Planning Board may, when compliance with the foregoing time periods would create a significant hardship for the owner, extend the time periods for such periods and upon such conditions as the Planning Board may reasonably determine.
- C. Unless work has materially commenced in accordance with the final site plan within one year from the issuance of the building permit authorizing such work, or within 36 months of the date the Planning Board gave final site plan approval, whichever is earlier, not only the building permit but the site plan approval (both final and preliminary) shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the granting of any site plan approval. The Planning Board, upon request of the applicant, after a public hearing, and upon a finding that the imposition of the time limits set forth above would create an undue hardship on the applicant, may extend the time limits for such additional periods as the Planning Board may reasonably determine. An application for such extension may be made at the time of filing of the original application or at any time thereafter up to, but no later than, six months after the expiration of the time limits set forth above.
 - (1) For the purposes of this section, work will not have "materially commenced" unless, at a minimum:
 - (a) A building permit, if required, has been obtained;
 - (b) Construction equipment and tools consistent with the size of the proposed work have been brought to and been used on the site; and
 - (c) Substantial excavation (where excavation is required) or significant framing, erection, or construction (where excavation is not required) has been started and is being diligently pursued.

Model Site Plan Review Local Law for Cattaraugus County, New York

Revised 4/10/04, Randall Arendt

SECTION I. AUTHORITY

In accordance with the provisions of Section 274-a of the Town Law [or Section 7-725-a of the Village Law] of the State of New York and Article 2, Section 10, et seq. of the Municipal Home Rule Law of the State of New York, the _____ Town/Village Board hereby authorizes the Planning Board to review and approve, approve with modifications, or disapprove site plans, and hereby adopts the following local law governing the approval or disapproval of site plans. To the extent that any provisions of this local law conflict with Section 274-a of the Town Law [or Section 7-725-a of the Village Law], it is the intent of this local law to supersede such section pursuant to the Municipal Home Rule Law.

SECTION II. PURPOSES

A. General Purposes

The general purposes of this local law are to provide performance standards by which applications for development will be evaluated by the Town (Village), and by which the actual performance of those operations and uses will be monitored by those officials for compliance. The purposes of these performance standards are to protect the Town (Village) in general, and abutting and neighboring landowners in particular, from any potential negative impacts that new nonresidential and multi-family uses may have on the physical environment and on the quality of life currently enjoyed by residents.

B. Specific Purposes

The specific purposes of the Site Plan Review process are to:

1. Provide for the safe and attractive development or change or expansion of use of the site and to guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of :
 - a. Inadequate drainage or conditions conducive to flooding of the property of that of another;
 - b. Inadequate protection for the quality of groundwater; and
 - c. Undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.
2. Provide for the harmonious and aesthetically pleasing development of the municipality and its environs;
3. Provide for open spaces and green spaces of adequate proportions;
4. Require the proper arrangement and coordination of streets within the site in relation to other existing or planned streets or with features of the official map of the municipality;
5. Require suitably located streets of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for firefighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system;

6. Require, in proper cases, that site plans showing new streets or narrowing or widening of such streets be submitted to the Planning Board for approval;

7. Require that the land indicated on site plans submitted to the planning board shall be of such character that it can be used for building proposes without danger to health; and

8. Require provisions, which will tend to create conditions favorable for health, safety, convenience, and prosperity.

SECTION III. SCOPE OF REVIEW

A. Commencement of Site Work

Whenever any development or change or expansion of use of a site governed by this local law is proposed or whenever any changes to such sites are proposed which differ from an existing site plan as previously approved by the Planning Board, the owner of the property or his authorized agent shall apply for and secure from the Planning Board approval of such proposed site development in accordance with procedures outlined in this local law, before any construction, land clearing, building development or change is commenced, and before any permit for the erection of any building or authorization for development on such site is granted.

B. Applicability

1. This local law shall apply to all new non-residential and multi-family uses as defined herein, except as specifically exempted by this local law. In addition, this local law shall apply to the following other kinds of development:

a. A change of use category in existing structures from residential to non-residential or from single-family to multi-family

b. Modifications to building exteriors of non-residential or multi-family uses (including changes in roof shape or pitch), or any construction involving at least 500 sq.. ft. of floor area within any three year period;

c. New parking lots related to a non-residential or multi-family use, or any expansion of existing parking lots by two or more parking spaces;

d. The introduction of new processes or different materials used on the premises governed by these regulations, where such processes or materials would be likely to increase environmental impacts in terms of the "good neighbor" performance standards contained in Section VIII below.

C. Exemptions

1. The following uses or activities are specifically exempted from the requirements of this local law:

- single family dwellings (and accessory uses)
- farming operations (and accessory uses)
- all retail, service, and manufacturing businesses as existing on the date of adoption of this local law, at their current size, and with their current materials and processes.

2. Home occupations shall be exempt from the procedural requirements of this local law and shall not require site plan approval, provided that they comply with the Good Neighbor Standards in Section VIII.

D. Initial Determination of Applicability

1. The Code Enforcement Officer shall make the initial determination whether this local law applies to a proposed development. If the proposed development is determined to fall within the purview of this local law, the CEO shall then classify it as either a Minor Project or as a Major Project as provided in subsections 2 and 3 below.

2. A minor project is a use or combination of uses on a lot or a series of adjoining lots that requires Site Plan review and that, over a three-year period, falls within the following thresholds:

- a. Construction of four or fewer multi-family dwelling units or a lodging facility with six or fewer bedrooms.
- b. Construction of facilities or structures for a non-residential use covering less than 3,000 square feet of building footprint.
- c. Alteration of existing structures or expansion of such structures by less than 1,000 square feet.
- d. Conversion of existing structures totalling less than 5,000 square feet to another use.
- e. Alteration and active use of less than 10,000 square feet of land, with or without structures (excluding soil mining).
- f. Soil mining that does not require a DEC permit.
- g. Construction of a structure that is 80 feet or less above average grade level.

3. A major project is any use or combination of uses on a lot or a series of adjoining lots that requires Site Plan review and that, over a three-year period, exceeds the thresholds in subsection 2 above.

4. If an applicant or other interested party disagrees with the Code Enforcement Officer's determination as to the applicability of this local law or the classification of a project as major or minor, such party may request a determination from the Planning Board. The Board shall make the final decision as to the necessity of Site Plan Review and the classification of the project as major or minor. (Note: If this ordinance is enacted as part of a local zoning law, appeals shall be only to the Town ZBA.)

E. Applicants' Compliance Responsibilities

1. This Site Plan Review Procedure in no way relieves the developer or his/her agent from compliance with the Town's Zoning Ordinance (if applicable), Subdivision Regulations (if applicable) or any other local law or ordinance pertaining to the proposed development. No site plan will be approved until it complies in all respects with any and all pertinent ordinances and regulations.

SECTION IV. DEFINITIONS OF SPECIAL TERMS USED IN THIS LOCAL LAW

The definitions contained in standard dictionaries shall apply to these Site Plan Review regulations, with the following exceptions:

Accessory Use: A use that is both subordinate and customary to the principal use.

Home-based Business: See Home Occupation.

Home Occupation: An occupation or profession that is: customarily carried on in a dwelling unit or structure accessory to a dwelling; carried on by a member of the family residing in the dwelling unit and not more than one full-time nonresident employee; and clearly incidental and secondary to the use of the dwelling for residential purposes. Home occupations shall not include Home-based Businesses, which are characterized by more than one full time employee (or equivalent) not residing in the premises.

Code Enforcement Officer: A person appointed by the Town (Village) Board to administer and enforce local laws and ordinances governing land use and development.

Dwelling Unit: A residential space including a kitchen or other area for food preparation, and one or more bathrooms, in addition to other living areas.

Multi-family Dwelling: A structure containing more than two dwelling units, or a lot containing more than two dwellings or manufacturing housing units.

Non-Residential Use: Any use other than a single-family, two-family, or multi-family dwelling, including a home-based business, but excluding home occupations as defined herein.

SECTION V. APPLICATION PROCEDURES

A. Procedures for Major Project Site Plan Approval

1. Applicability

This Section applies to Major Project Site Plan approval applications.
See Section B for Minor Project Site Plan application procedures.

2. Pre-Application Meetings

Before filing an application, a preliminary conference with the Code Enforcement Officer and one person designated by the Planning Board Chair is VERY strongly encouraged to discuss the nature of the proposed use and to classify it as a Major or Minor Project. If the Code Enforcement Officer classifies the project as a Major Project, a preliminary conference with the Planning Board is required to discuss the nature of the proposed use and to determine the information that will need to be submitted in the Site Plan.

3. Submission

All Major Project Site Plans shall be submitted, with _____ copies (state number) as required by the Planning Board, to the Planning Board Secretary, who shall distribute them to the Planning Board, and such other municipal boards, officials, and consultants as the Planning Board deems appropriate. In addition to the Site Plan drawings, the applicant shall submit the Site Plan application fee, as established by the Town (Village) Board.

4. SEQRA Compliance

Upon receipt of application materials it deems complete, the lead agency (Note: this is often but not always the Planning Board) shall initiate the New York State Environmental Quality Review process (where applicable) by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

5. Public Hearing and Decision

a. The Planning Board shall hold a public hearing on the Site Plan and shall follow the provisions on county referral, notice, hearings, and time limits, as detailed below:

1) Referral to County Planning Board

a) Upon receipt of application materials it deems to be complete, the

Planning Board shall refer to the County Planning Board any application affecting real property within 500 feet of the boundary of the Town (Village) of _____, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239-l and 239-m, as amended.

b) No action shall be taken on applications referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.

c) County Disapproval: A majority-plus-one vote of the Planning Board shall be required to approve any site plan which receives a recommendation of disapproval or modification of the site plan from the County Planning Board before the Planning Board takes action. The Planning Board shall by resolution set forth its reasons for such contrary action.

2) Notice and Hearing

a) The Planning Board shall hold a public hearing on a complete site plan review application within 62 days of its submission. The Board shall mail notice of the hearing to applicant at least ten days before the hearing and shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper at least five days prior to the date thereof.

b) For all major projects, the applicant shall also be required to post a notice on a sign purchased from the Town Clerk stating that there is a pending application on the property, and providing the date, time, and place of the hearing, the place and times the application may be reviewed by the public, and a telephone number to call for further information. This sign shall be posted in public view in a conspicuous location within three days after the Planning Board establishes a public hearing date, shall be updated if more hearing dates are scheduled, and shall remain in place until the day after the hearing is closed.

3) Action

a) The Board shall grant, deny, or grant subject to conditions the application for Site Plan approval within 62 days after the hearing for a Major Project. Any decision on a Major Project shall contain written findings explaining the rationale for the decision in light of the standards contained in this local law.

b) In approving a Site Plan, the Planning Board may impose any conditions which it considers necessary to fulfill the requirements of this local law. These conditions may include specifying the location, character and number of vehicle access points; requiring landscaping, planting and screening; requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities; and requiring action by the applicant, including the posting of performance bonds and furnishing of guarantees to ensure the completion of the project in accordance with the conditions imposed.

c) The Site Plan shall be implemented as provided in Subsection C.

d) A copy of the decision shall be immediately filed in the Town

(Village) Clerk's office and mailed to the applicant. A resolution of either approval or approval with modifications and/or conditions shall include authorization to the Planning Board Chairman to stamp and sign the Site Plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.

e) If the Planning Board's resolution includes a requirement that modifications be incorporated in the Site Plan, conformance with these modifications shall be considered a condition of approval. If the Site Plan is disapproved, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after it has been revised or redesigned.

B. Procedure for Minor Project Site Plan Approval

The procedure for Minor Project Site Plan approval by the Planning Board shall be the same as prescribed for Major Projects, except for the following:

1. A Minor Project application fee established by the Town Board shall be paid.
2. No public hearing shall be required for a Minor Project Site Plan. The Planning Board may, in its sole discretion, hold a public hearing. If no public hearing is held, the Planning Board shall give notice to the County Planning Board as required, and render a decision within 62 days of its receipt of a complete Site Plan application.
3. Minor projects shall not be required to comply with the requirement of posting of signs contained in subsection A 2 (b).

C. Implementation of Approved Site Plans

Within six months after receiving approval of a Site Plan, with or without modifications, the applicant shall submit ____ copies (state number) of the Site Plan to the Planning Board for stamping and signing. The Site Plan submitted for stamping shall conform strictly to the Site Plan Approved by the Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:

1. Record of application for and approval status of all necessary permits from federal, state, and county officials.
2. Detailed sizing and final material specification of all required improvements.
3. An estimated project construction schedule. If a performance guarantee is to be provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.
4. Upon stamping and signing the Site Plan, the Planning Board shall forward a copy of the approved Site Plan to the Code Enforcement Officer, and the applicant. The Code Enforcement Officer may then issue a Building Permit or Certificate of Occupancy if the project conforms to all other applicable requirements.

D. Performance Guarantee

No Certificate of Occupancy shall be issued until all improvements shown on the Site Plan are installed, or a sufficient performance guarantee has been posted for improvements not yet completed. The performance guarantee shall be posted in accordance with Section VII herein.

SECTION VI. SUBMISSION REQUIREMENTS

A. General Requirements

Every application shall be accompanied by a plan showing information relevant to the proposal, including those matters addressed in this Section. All Major Project Site Plans shall show the items listed below, unless a waiver from any of these is granted by the Board. All existing conditions shall be drawn in solid lines, proposed conditions shall be drawn in dotted lines.

B. Required Information for Site Plan

1. An application for Site Plan approval shall be accompanied by plans and descriptive information sufficient to clearly portray the intentions of the applicant. Minor Project Site Plans shall contain only such information as the Planning Board deems necessary to conduct an informed review. Major Project Site Plans shall be prepared by a licensed professional engineer, architect, or landscape architect, in good standing in the State of New York, and shall include the following (unless waived):

a. Name of the project or identifying title; names and addresses of owners of record; and tax map and lot number. If the applicant is not the record owner, a letter of authorization shall be required from the owner.

b. North arrow, boundaries, date, scale of the plan, name and address of person preparing the plan; signature block for Planning Board approval. The plan shall be prepared, stamped and signed by a registered Professional Engineer or registered Land Surveyor, architect, or landscape architect in good standing in the State of New York.

c. Context information shown on an vertical aerial photograph enlarged to a scale not less detailed than 1 inch = 200 feet, with the site boundaries clearly marked showing the location of the site in relation to physical features and existing land-uses within 500 feet in all directions, including existing public streets, together with the zoning district boundaries (where applicable). This information may be derived from existing published data available from governmental agencies, and from aerial photographs.

d. An Existing Conditions Map, showing the location and use of all existing structures within the property (including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations), plus existing roads, utilities, and other man-made features, as well as topography and all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight or more inches in diameter located within any area where clearing will occur, forest cover, soils (including prime and statewide important agricultural soils), and ponds, lakes, wetlands, watercourses, aquifers, floodplains, vernal pools, natural and manmade drainage-ways, and retention areas. In addition, the Existing Conditions Map shall show all other existing man-made features including but not limited to foundations, landscaping, fences, stone walls, cellarholes, earthworks, graves, wells, drainage fields, dumps, utilities, fire hydrants, and storm and sanitary sewers.

e. The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, and paths. The location, type, and screening details for

all waste disposal containers shall also be shown.

f. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures, both proposed and existing (if not proposed to be removed). The direction of illumination and methods to eliminate glare onto the public roadway and adjoining properties must also be shown.

g. The location, height, size, materials, and design of all proposed signs.

h. The location of all present and proposed utility systems including:

- 1) Sewage or septic system;
- 2) Water supply system;
- 3) Telephone, cable, and electrical systems; and
- 4) Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

i. Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service, in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability). The location and type of proposed waste disposal system shall be shown, with an outline of the areas reserved for leach fields for any new or replacement system. The Planning Board may require that the location of test pits and the record of percolation tests shall be submitted. If applicable, copy of certification by a New York licensed septic designer that an existing system is adequate to meet the needs of the proposed use.

j. Location of existing and proposed on-site well (showing the appropriate protective radius) as defined by applicable laws or regulations of governmental authority having jurisdiction thereof.

k. Erosion and sedimentation control plan to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable. The Planning Board may require that storm run-off calculations be submitted.

l. Existing and proposed grades and topographic contours at two-foot contour intervals, or such other contour interval as the Board shall specify, with spot elevations and base flood elevations where appropriate. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year floodplain, the area(s) shall be shown, and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards. The determination of appropriate contour intervals shall be made by the Planning Board, which may specify greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15 and 25 percent and exceeding 25 percent shall be clearly indicated. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.

m. A landscape, planting, and grading plan showing proposed changes to existing features.

n. Where applicable, zoning district boundaries within 200 feet of the

site's perimeter shall be drawn and identified on the Site Plan, as well as any Overlay District boundaries applying to the property.

o. Identification of access to the site, sight distance at the access point(s), curb cuts and proposed changes (if any) to existing streets; and copy of any driveway permit(s).

p. Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts on the site and within 100 feet of the site. Location of existing and proposed sidewalks and driveways, with indication of direction of travel for any which are one-way. Both vehicular and pedestrian circulation shall be shown. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas.

q. The location and total number of parking spaces, loading spaces and other similar facilities associated with the use.

r. For new construction or alterations to any structure, a table containing the following information shall be included:

- 1) Estimated area of structure intended to be used for particular uses such as retail operation, office, storage, etc.;
- 2) Estimated maximum number of employees;
- 3) Maximum seating capacity, where applicable; and
- 4) Number of parking spaces existing and required for the intended use.

s. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.

t. Where appropriate, a cultural resource survey of resources with historic or archaeological significance.

u. Other information that may be deemed necessary by the Planning Board.

C. Other Documentation

1. It is the responsibility of the applicant to seek and obtain all appropriate permits from any or all agencies, whichever may apply, including but not limited to the County Health Department, the Town (Village) Water and Sewer Commission, the Zoning Board of Appeals (if applicable), New York State Department of Transportation, the New York State Department of Environmental Conservation, and other agencies with jurisdiction over the project. These approvals and permits need not be obtained prior to submission of an application under this local law, but any approval granted under this local law shall be conditioned upon such permits and approvals being obtained by the applicant within one year of Site Plan approval under this local law.

2. An Erosion Control Plan which meets the design standards and specifications set forth in the "Erosion and Sedimentation Control Design Handbook for Developing Areas in New York" (USDA Natural Resources Conservation Service) shall be submitted where one or more of the following conditions are present:

- a. A cumulative disturbed area exceeding 20,000 square feet;
- b. Construction of a road or a street

3. An adequate stormwater drainage system developed by a registered

professional Engineer, licensed in New York, in accordance with the Model Local Law for Stormwater Management and Erosion & Sediment Control, and its accompanying Guidelines.

4. An adequate plan for snow removal. This plan should be developed with, and approved by, the Town (Village) Public Works Director.

5. Copies of recordable instruments conveying any proposed or existing easements, covenants, deed restrictions, conservation easements, etc.

6. "As-Built" Plans and Inspection of Improvements

No Certificate of Occupancy shall be granted until the applicant has filed a set of as-built plans with the Code Enforcement Officer, indicating any deviations from the approved Site Plan. The Code Enforcement Officer shall be responsible for the inspection of site improvements, including coordination with the Town's consultants and other local officials and agencies, as may be appropriate, and shall grant a Certificate of Occupancy upon a finding that the project as built complies in all material respects with the Site Plan.

SECTION VII. PERFORMANCE GUARANTEES

A. As a condition of approval, the Planning Board shall require the posting of a performance guarantee following the provisions contained in Section 277-a of the Town Law (Section 7-725-a) of the Village Law) relating to site plans. Such performance guarantee shall be in an amount sufficient to defray the cost of construction of all on-site improvements as required by the Planning Board as part of its approval of the site plan. The amount and sufficiency of such performance guarantee shall be determined by the Town (Village) Board after consultation with the Planning Board, Town (Village) Attorney, Code Enforcement Officer, other local officials, and the Town's (Village's) consultants. The amount of the security shall be based on an estimate of such costs provided by the applicant's engineer or surveyor, plus an additional 15 percent for inflation and contingencies. The amount of security shall also include fees to cover the cost of periodic inspections by the relevant Town (Village) Department and/or the registered professional Engineer retained by the Planning Board. At the discretion of the Planning Board, the calculation of the proposed security shall be reviewed by an independent engineer. All costs of such review shall be paid by the applicant. The security shall be approved as to amount, form and sureties by the Planning Board and the Town's (Village's) legal counsel.

B. Where electric lines or other utilities are to be installed by a corporation, municipal department, or public utility, a letter of intent shall be required stating that the work will be done in reasonable time and without expense to the Town (Village). Each approved site plan shall contain a time limit for the completion of streets and public improvements. The performance guarantee shall be released in phases as portions of the secured improvements or installations are completed, in accordance with the plan approved by the Board.

C. It shall be a condition of site plan approval that all relevant and applicable permits of other governmental jurisdictions shall be obtained, be at all times in force and that the property to which they apply shall be at all times in compliance therewith. Site plan revocation proceedings pursuant to Section XII.C may commence at the discretion of the Planning Board for any violation of the foregoing condition. All such proceedings shall accord notice and hearing to the permittee.

SECTION VIII. "GOOD NEIGHBOR" PERFORMANCE STANDARDS

A. Design of Development

The site shall be designed to respect and to fit the existing natural and man-made environments which it affects, with the minimum stress or impact, as follows:

1. Site preparation shall be conducted with minimal disturbance to existing vegetation. Stripped topsoil shall be piled and reused on the site where needed. A minimum of four inches of topsoil shall be placed on unpaved, disturbed areas. Landscaped areas shall be thickly planted with an emphasis on native specie trees, shrubs, and perennial flowers, as delineated in the landscape plan.
2. Landscape treatment shall consist of natural, undisturbed vegetation or features, or newly installed ground cover, shrubs, or trees where appropriate. Where a buffer or natural screen is required by the Planning Board, such buffer or screen shall be permanent and sufficient, in the opinion of the Planning Board, to protect the abutting property from unreasonable environmental impacts such as noise, lighting or intrusion of traffic to or from the proposed development, during all seasons of the year.
3. Grading and filling shall be conducted to minimize alterations to the existing natural terrain and surface and subsurface drainage to, toward or across abutting properties.

B. Access, Traffic Control, and Pedestrian Safety

1. New non-residential land developments having frontage on state or county highways, shall be designed with shared access points to and from the highway, wherever practicable. For each use with less than one hundred (100) feet of street frontage a maximum of one access lane to such street shall be allowed. In all other instances, normally, a maximum of two accesses shall be allowed per parcel or development (one ingress, one egress, for example), regardless of the number of businesses served.
2. All vehicular movements to and from state or county highways ways into residential lots that are subdivided after the effective date of this local law shall be via a single common driveway or entranceway serving all lots or dwellings. All lots of record existing at the effective date of this local law shall be allowed one direct access to such thoroughfares, provided that minimum sight-distance standards can be met. Exceptions for a second entrance/exit may be granted by the Planning Board provided that the two access points are not closer than 500 feet and that they both meet applicable minimum sight-distance standards.
3. Access to public streets shall also meet the requirements of the NYS Department of Transportation, the Town (Village) Zoning and Subdivision Regulations (if applicable), and the Town (Village) Highway Department. The internal traffic pattern must accommodate the proposed use, as well as providing unimpeded access for emergency vehicles.
4. Sidewalks, of a kind, size and type specified by the Planning Board as part of its approval, shall be provided for pedestrian traffic to provide connection between the main entrances of businesses, housing or industrial establishments and parking areas. In the event that pedestrian shoppers or employees are reasonably anticipated, provision shall be made for sidewalks running from the street line to the establishments. All such sidewalks shall be at least six (6) inches above grade and protected by curbing.

C. Dust, Fumes, Vapors, Gases and Odors

1. Emission of smoke, dust, dirt, fly ash or other particulate matter, or of noxious, toxic or corrosive fumes, vapors or gases in such quantities as to be evident or perceptible at the property line of any lot on which a use is conducted, or which could be injurious to human health, animals, or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.
2. In addition, no land use or establishment shall be permitted to produce harmful, offensive, or bothersome odors, scents, or aromas, (such as, but not limited to, those produced by manufacturing processes, food preparation, food processing, fish sales, rendering, fermentation processes, decaying organic matter, and incinerators) perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on the plan, with a description of the source materials.

D. Solid Waste Management

1. No storage of solid or liquid waste shall be permitted in excess of 30 days, and solid waste consisting of perishable food items shall be removed from the premises after no more than seven days. All refuse containers shall have tight-fitting lids and shall be enclosed or screened so as to not be visible at property lines.
2. The applicant shall provide for the disposal of all solid and liquid wastes in an environmentally safe manner. The Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's disposal method and/or disposal area (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

E. Glare and Outdoor Illumination

1. Outdoor lighting shall be controlled in both height and intensity to maintain the Town's (Village's) rural character. Therefore, no lighting from any land-use or establishment shall project beyond its lot lines onto neighboring properties, or onto any public road or state highway so as to impair the vision of the driver of any vehicle upon that public way. To achieve this, light standards are restricted to a maximum of eighteen (18) feet in height, and luminaires shall be shielded to prevent light shining beyond the lot lines into neighboring properties or public ways.
2. Indirect lighting shall be used on signs advertising goods or services offered on the premises. Blinking or flashing lights or signs are not permitted.
3. Outdoor lighting is restricted to that which is necessary in the opinion of the Planning Board for advertising and security of the property.
4. Where there is a mix of residential and commercial or industrial uses, and where light rays from on-residential lighting sources would otherwise fall onto residential property, all outdoor lighting (except for security purposes) shall be hooded and/or screened to prevent such light trespass, or shall be turned off between 11 p.m. and 6 a.m. Exceptions will be granted for those businesses which are operating during these hours.

5. Under no circumstances may the light level at the lot line exceed 0.2 foot-candles, measured at ground level.

F. Ground Water Supply and Pollution Control

1. To avoid undesirable and preventable elements of pollution such as noise, smoke, particulate, or any other discharges into the environment which might prove harmful or a nuisance to persons, structures, groundwater, or adjacent properties it is the responsibility of the applicant to employ the best standards and technology economically available at the time. No plan shall be approved which does not appropriately protect groundwater and other natural resources from adverse conditions caused by the development.

2. All outdoor storage facilities for fuel, chemicals, or industrial wastes, and potentially harmful raw materials, must be located on impervious pavement, and shall be completely enclosed by an impervious dike high enough to contain the total volume of liquid kept in the storage area, plus the accumulated rainfall of a fifty (50) year storm. This requirement is intended to prevent harmful materials from spilling and seeping into the ground, contaminating the groundwater.

3. Storage tanks for heating oil and diesel fuel, not exceeding two hundred seventy five (275) gallons in size, may be exempted from this requirement provided that there is no seasonal high water table within four (4) feet of the surface, and that rapidly permeable sandy soils are not involved.

G. Stormwater Management and Aquifer Recharge

1. No increase in the peak flow of surface runoff shall be permitted if such increased runoff passes beyond the property lines of the parcel upon which the development occurs, unless it is within an approved public storm drainage system. Notwithstanding the foregoing, the Planning Board may consider the adverse impact caused by drainage, whether or not it is within an approved public storm drainage system upon downstream properties or conditions.

2. All stormwater management systems for sites involving more than 5,000 sq. ft. of impervious coverage shall be designed as bio-retention areas promoting aquifer recharge. "Best Management Practices" shall be followed (such as those recommended by the UDSA Natural Resources Conservation Service, or by the Center for Watershed Protection in Ellicott City, MD). In addition, all such facilities shall be designed and constructed in accordance with the Model Local Law for Stormwater Management and Erosion & Sediment Control, and its accompanying Guidelines.

H. Heat, Radiation, Electrical or Magnetic Interference, and Explosive Hazards

1. No use shall permit perceptible heat or radiation beyond the property line, nor shall it endanger surrounding areas by reason of an unusual fire, explosion, or other safety hazard. In addition, no use shall result in electrical, magnetic, or other interference with any use, process, equipment, appliance, or device located beyond the property line of the property on which the use is located.

I. Off-street Parking and Loading

1. Adequate off-street parking and loading space shall be provided, including off-street areas for maneuvering of anticipated trucks or other vehicles. This shall not result in the creation of excessive numbers of parking spaces that would be used only at peak times.
2. Parking lots shall be provided only at the side or to the rear of non-residential buildings that are visible from Town (Village) roads. When rear parking areas would abut existing residential development, the parking lots and outdoor lighting shall be effectively screened from view by a solid wooden fence six feet high, lights directed toward the proposed development and away from neighboring residences, or similar protective measures.
3. When rear or side parking is not practicable due to physical conditions of the site, thickly vegetated buffers shall be provided, whose width, length, and planting materials shall be sufficient to visually screen parked vehicles from the public way. In village situations, this screening shall consist of deciduous shade trees spaced at 30-foot intervals, under-planted with a hedge between 36 and 42 inches in height. In rural situations, a less formal planting scheme including taller hedges and/or denser plantings shall be utilized.
4. Access, parking, and loading areas shall be constructed so as to minimize dust, erosion, and runoff conditions that would have a detrimental effect on abutting or neighboring properties.
5. Permeable surfaces may be used which reduce the need for installation of drainage facilities to accommodate runoff. However, the Planning Board may require that access, parking and loading areas be conventionally paved, if deemed appropriate.

J. Landscaping and Screening

1. Parking lots shall be provided with at least one tree (of 2.5" caliper) for every 15 car spaces (10 trees per acre), evenly distributed throughout such lots.
2. Where new fencing is greater than four feet in height, or more than 20 feet in length, it shall be softened visually with tree and shrub plantings.
3. In instances where healthy plant material exists on a site prior to its development, the Planning Board may adjust the application of the above mentioned standards to allow credit for such plant material if, in its opinion, such an adjustment is in keeping with and will preserve the intent of these standards.
4. Appropriate screening/buffers are to be maintained or installed to provide privacy and noise reduction to residential areas abutting nonresidential sites:
 - a) Where all of the required off-street parking cannot be located behind the building, buffer areas shall be planted along the public edge of front or side parking lots. Such areas shall be at least ten feet wide with dense evergreen plantings thirty inches high and canopy shade trees planted not less than 30 feet apart and parallel to the public way. All trees shall be a minimum of 2.5-inch caliper (trunk diameter) when planted. Native trees and shrubs shall be planted wherever possible, in order to capture the "spirit of the locale" through indigenous species (such as lilac, viburnum, day lilies, ferns, red-twig dogwood, oak, maple, sycamore, linden, hawthorne, birch, shadbush, etc.). Where evergreen hedges are proposed, a temporary fence should be built to provide screening until the evergreens are of sufficient height. In all residential districts and in village and hamlet overlay districts, screening shall consist of deciduous shade trees and low shrubbery

b) Buffer strips between single-family residential and multi-family residential uses, and between non-residential and residential uses, shall consist of either solid wooden fencing at least six feet high, or dense vegetation that will effectively screen nonresidential and multi-family uses from the sight of single-family residential uses during both summer and winter months.

3) Storage areas and garbage collection areas must be fenced or screened.

K. Water Supply and Sewage Disposal Systems

1. These utility systems must be sized to adequately meet the needs of the proposed use under the regulations of the NYS Department of Environmental Conservation, County Health Department, and/or the Town (Village) Water and Sewer Department regulations. It shall be the responsibility of the applicant to provide adequate information to demonstrate that the area of the lot is adequate to permit the installation and operation of an individual sewage disposal system or that existing systems are adequate to serve the needs of the proposed development.

L. Flood Damage Prevention

Applications for site plan approval shall comply with the provisions of the Town's Flood Damage Prevention Law (Local Law # ---- of 20--).

SECTION XI. ADMINISTRATION AND ENFORCEMENT

A. This local law shall be administered by the Planning Board and the Code Enforcement Officer. The enforcement of this local law is vested with the Code Enforcement Officer and the Town (Village) Board. The CEO shall not issue any building permits for construction which requires site plan approval until or unless such planned construction has received site plan approval by the Planning Board.

B. Burden of Proof

1. The applicant for a permit to construct or operate a proposed business or processing use has the burden of proof of demonstrating, as a condition of approval:

a. that the proposed use will comply with the standards contained or referred to above; and

b. that adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to insure that the proposed use will not be noxious, hazardous, or offensive as defined above.

2. In order to determine that adequate safeguards are provided, the Planning Board may:

a. require that the applicant submit necessary information, plans, impartial expert judgments, and written assurances;

b. obtain the expert advice of official agencies, or of private consultants; and

c. make such reasonable tests as are deemed necessary.

C. Waivers

Any portion of these regulations may be waived or modified if the Planning Board reasonably finds such requirements not to be requisite in the interest of public health, safety, or general welfare or inappropriate to a particular site plan, in accordance

with the provisions of Town Law Section 274-a(5) and Village Law Section 7-725-a(5).

D. Abatement of Violations

The Code Enforcement Officer or the Town (Village) Board may issue a stop-work or cease-and-desist order and/or institute an appropriate legal action or proceeding to prevent, restrain, correct, or abate any violation of this local law to prevent the occupancy of premises, or to prevent any activity, business, or use that violates this local law.

E. Penalties

Any person who violates any provision of this local law or who fails to do any act required thereby shall, for each and every such violation, pay a civil penalty of not more than \$100.00. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional penalty.

F. Application for Area Variance

Where a proposed Site Plan contains one or more features which do not comply with the dimensional regulations of the zoning law (if applicable), application may be made to the Zoning Board of Appeals for an area variance without a decision or determination by the Code Enforcement Officer.

G. Judicial Review

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules as provided in Town Law Section 274-a(11) (or Village Law Section 7-725-a(11)).

SECTION XII. SITE PLAN AMENDMENTS, EXPIRATION, REVOCATION, AND ENFORCEMENT

A. Site Plan Amendments

An approved Site Plan may be amended by filing an application with the Planning Board for a Site Plan amendment.

1. If the Planning Board finds that such proposed amendment does not represent a substantial change from the approved Site Plan, it shall grant the amendment without a hearing.
2. If the Planning Board determines that the proposed amendment is not consistent with the terms of an approved Site Plan approval, it shall follow the procedures for Site Plan approval contained in this local law and hold a public hearing if the amendment would be considered to be a Major Project.

B. Expiration

A Site Plan approval shall expire if the applicant fails to obtain the necessary Building Permits or fails to comply with the conditions of the Site Plan approval within 18 months of its issuance. The Planning Board may grant a one-time six-month extension.

C. Revocation

A Site Plan approval may be revoked by the Planning Board with notice to the permittee and an opportunity to be heard, if the permittee violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.

D. Violation of Conditions

Any violation of the conditions of a Site Plan approval shall be deemed

a violation of this local law, and shall be subject to enforcement action as provided herein.

SECTION XIII. VALIDITY AND SEVERABILITY

If any provision of these regulations shall be held invalid for any reason by a court, such holding shall not invalidate in any manner any other provision contained herein.

SECTION XIV. AMENDMENTS

These regulations may be amended by the Town (Village) Board by local law.

SECTION XV. CONFLICTS

In the event of a conflict between provisions of this local law or of a provision of this local law with any other regulation or law, the provision which adopts the stricter standard or imposes the greater burden shall control.

SECTION XVI. EFFECTIVE DATE

This local law, and any amendments thereto, shall take effect ten days after filing with the office of the Secretary of State of the State of New York.