

Town of Roxbury

Site Plan Review Law

Article I. Enactment, Title, Purpose and Authority

Section 1.01. Enactment

The Town Board of the Town of Roxbury, Delaware County, New York does hereby ordain and enact the Town of Roxbury Site Plan Review Law pursuant to the authority and provisions of Section 274-a of the State of New York Town General Law.

Section 1.02. Title

This local law shall be known as "Local Law No. 2 The Town of Roxbury Site Plan Review Law".

Section 1.03. Intent and Purpose

The site plan review requirements herein have been established in accordance with the Town of Roxbury Comprehensive Plan to promote the health, safety, and general welfare of the present and future inhabitants of the Town of Roxbury. This local law is NOT a tool to address whether a use should be allowed or not. The intent of this local law is to ensure that development on individual parcels of land fits into the community, is consistent with local planning goals and objectives, and does not adversely affect surrounding areas. It allows the development of new businesses in a safe, orderly and efficient manner. In addition, it is the intent of this local law to honor individuals' property rights.

It is further the intent of this local law to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town through review and approval of site plans. Toward this end, these regulations establish standards for preserving water quality, controlling air quality and traffic congestion, ensuring site access for emergency services (e.g. fire, police and ambulance), providing adequate water supply and safe and proper means for sewage and solid waste disposal, and guarding neighboring properties against intrusive development. Any person uncertain whether the law applies to a land use activity they are proposing should apply in writing to the Planning Board for a written response.

Section 1.04. Authority

The Town of Roxbury Planning Board is hereby authorized to review and approve, approve with conditions, or disapprove site plans prepared to the specifications set forth in this local law. The Planning Board may hire a professional consultant and/or engineer to assist them in the review of an application at the applicant's expense. Upon request, an escrow fund will be set up by the applicant in an amount determined by the Planning Board for the cost of said consultant and/or engineer.

Article II. Applicability

Section 2.01. Uses Requiring Site Plan Review and Approval

New commercial (including institutional, recreational, industrial and all other forms of non-residential) construction including expanding existing structure as set forth below within the Town shall require site plan review and approval before being undertaken, except those specifically exempted in Article II, Section 2.02. The following uses shall require site plan approval:

- A. New commercial construction.
- B. Extension, enlargement, expansion or alteration to an existing commercial, structure or use that exceeds the current structure or use which will increase the gross floor area of the existing structure by more than 20%.

Section 2.02. Exempted Uses Not Requiring Site Plan Review and Approval

- A. Construction at an existing commercial facility , of an ordinary accessory structure (with a gross floor area less than 2,000 square feet) including incidental landscaping or grading.
- B. Ordinary repair or maintenance of existing structures or uses and interior alterations.
- C. Agricultural buildings and ordinary agricultural, noncommercial recreational and forest wildlife management practices.
- D. Individual mobile and modular homes (house trailer) and other forms of residential dwellings.
- E. Home occupations.
- F. Exterior alterations or additions to an existing commercial (including home occupations with employees), industrial, institutional, and recreational structure, which will not increase the gross floor area of the existing structure by more than 20%.

Section 2.03. Existing Uses and Structures (Grand fathering)

This law does not apply to uses and structures that are lawfully in existence as of the date this local law becomes effective. Any use or structure shall be considered to be in

existence provided such use or structure has started construction prior to the effective date of this local law and is fully constructed and completed within one year after the effective date of these regulations.

Any use that would otherwise be subject to this law, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use that has ceased due to damages resulting from a fire or a natural disaster including but not limited to a flood, tornado or earthquake are exempt from these rule's provided the reconstruction does not increase the floor area by more than 20% of the original structure and the same use is being placed on the lot.

Section 2.04. Uncertain Applicability

Any person uncertain whether the law applies to a land use activity they are proposing should apply in writing to the Planning Board for a written response.

Article III. Application and Review Procedures

Section 3.01. General information

Any person, before undertaking any new land use activity at any location within the Town for which this law requires site plan review, shall submit the appropriate site plan review information to the Planning Board. Any person uncertain whether the law applies to a land use activity they are proposing should apply to Planning Board in writing for a written response.

In general, a site plan shall comprise of a development plan for an entire project on a single parcel of land, showing the use or uses, dimensions and locations of proposed and existing structures. Also included are areas to be reserved for vehicular and pedestrian circulation, parking, signs, landscaping, screening and other spaces, and sketches and drawings demonstrating the design and character of the proposed uses, and the physical relationship of such uses.

Section 3.02. Less Intensive Review and Waivers

The Planning Board may elect to conduct a less intensive review for minor types of projects that have little or no adverse impacts on neighboring properties and uses. Certain requirements of Article III may be waived where deemed warranted. The Planning Board must state its grounds for waiving certain submission requirements in writing and file such statement along with the site plan application and supporting documents.

Additionally, upon written request of an applicant the Planning Board may waive, subject to appropriate conditions, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

Section 3.03. Pre-sketch Phase / Initial Conference

The applicant can choose to speak and meet with a designated Planning Board member prior to the submission of a Sketch Plan. This serves to help prevent any confusion and unnecessary expenses and work to the applicant. It would be helpful if the applicant could provide some preliminary material during this conference such as a tax map number, deeds, and maps/drawings to the designated Planning Board member who will provide advice to facilitate the proposal. The designated Planning Board member will explain to the applicant the site plan review process and what information will be required of them for the Planning Board to properly review the proposal and make a decision on it. Not all informational requirements will be the same for each proposal, since each proposal is different. If after this initial conference, the applicant would like to request a waiver of any local law requirements then the applicant should do so, before the next phase begins, see Article III.

Section 3.04. Sketch Plan Phase

Three (3) copies of the sketch plan, completed site plan application (if the owner is being represented by someone other than themselves, a letter signed by the owner giving whomever the authority to represent them should also be included with the application), an Environmental Assessment Form and the appropriate fee shall be filed with the Planning Board at least 14 days prior to the regularly scheduled meeting of the Planning Board, however the Planning Board may waive the time requirement at their discretion. The Planning Board shall review said sketch plan, site plan application and Environmental Assessment Form and determine whether it is complete and conforms to the provisions of this or any other local laws. A complete sketch plan includes all the information determined necessary at the pre-sketch phase. Article III, Section 3.06 and 3.07 includes all items that could be requested by the Planning Board; however, these items are at the discretion of the Planning Board and are based on an individual basis.

Section 3.05. Site Plan Phase

The Planning Board shall notify the applicant in writing within 10 days of review of the sketch plan if the application appears incomplete. In no case shall an application be processed if it is incomplete. When the Town Planning Board has made a determination of completeness, the applicant shall submit to the secretary of the Planning Board three (3) copies of the completed site plan (i.e. finalized sketch plan)

and any related paperwork mention in Article III, Section 3.04, if any of the previously supplied information has changed since the sketch phase, at least 10 days prior to the regularly scheduled Town Planning Board meeting. Determination will be made as to which of the items listed in Article III, Sections 3.06 and 3.07 apply to the applicant.

Section 3.06. Sketch / Site Plan Submission Requirements

Plans submitted to the Planning Board shall be considered as being ready for review, provided that the following data and information are included in a site plan map. Note, numbers 1-6 are required for all applicants and numbers 7-18 maybe required depending upon the nature and extent of the proposed land use change.

1. The site plan map shall be produced at a scale of one-inch (1") equals 50 feet or less, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
2. Name of the project, boundaries, and location maps showing site's location in the town, date, north arrow and scale of the plan.
3. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
4. Name and addresses of all owners of record of abutting parcels and those within 500 feet of the property line.
5. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within 500 feet of the site.
6. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
7. The location of all present and proposed public and private ways, parking area, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details shall also be shown.
8. All pertinent lighting information relating to the proposed action, e.g. location(s), etc. if applicable.
9. All pertinent noise information relating to the proposed action, e.g. public address systems, etc. if applicable.
10. The location, height, size, materials, and design of all proposed signage.
11. The location of all present and proposed utility systems including:

- a. Sewage or septic system.
- b. Water supply system.
- c. Telephone, cable and electrical systems.
- d. storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
- e. The Planning Board may also request soil logs, soil profile analysis (deep hole tests) and percolation tests, when necessary.

12. Whenever changes/activities affect surface or groundwater and/or the potential exists for erosion, due to soil disturbance, activities must comply with current NYS DEC and NYC DEP requirements, e.g. erosion and sediment control measures and/or stormwater pollution prevention plans.

13. Existing and proposed topography at a 10 foot contour interval, if at all possible. 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 flood plain, the area will be shown, and base flood elevations given. Indicate areas within the site where ground removal or filling is required, and give its approximate volume in cubic yards.

14. Landscape plans maybe required if the board determines it is required to meet the intent of this law.

15. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, and curb cuts on the site and within 100 feet of the site.

The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site estimated for daily and peak hour traffic levels.
- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
- c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.

16. For new construction or alteration to any existing building, a table containing the following information must be included:

- a. Area of building to be used for a particular use such as a retail operation, office, storage, etc.
 - b. Maximum number of employees.
 - c. Maximum seating capacity, where applicable.
 - d. Number of off-street and on-street parking spaces existing and required for the intended use.
17. Elevation plans at a scale of 1/4" = 1' for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
18. Any other information necessary to effectively review a proposal.

As previously stated, an Environmental Assessment Form (either a short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to ensure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

Section 3.07. Considerations, Conditions and Standards.

Conditions and standards. In considering the approval of the site development plan, the Planning Board shall take into consideration the public health, safety, and welfare of the community in general, and the comfort and convenience of the immediate neighborhood in particular, may impose appropriate conditions and safeguards in harmony with the intent of this local law, and particularly in regard to achieving the following:

1. Traffic and circulation.
 - a. Adequacy of the location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site and traffic patterns thereon, and in relation to pedestrian traffic.
 - b. That all proposed traffic access ways to and from the public street are adequate in width, grade, alignment and visibility; not located too near street corners, schools or other places of public assembly; and other similar safety considerations.
 - c. That the interior circulation system is adequate to provide safe accessibility to all required off street parking and for fire apparatus and police vehicles; the

adequacy of location and design of automobile parking areas and of loading areas.

- d. That there be adequate off street parking (where necessary) and, if applicable, loading facilities for people or goods, for the projected and reasonably anticipated use.

2. Layout and screening.

- a. Sufficient and reasonable location of main and accessory buildings in relation to the site and in relation to one another.
 - b. Sufficient and reasonable relations between the development on the site and existing and prospective development of contiguous land and adjacent neighborhoods.
 - c. That all playground, parking and service areas are adequately screened, at all seasons of the year, from the view of adjacent residential lots and streets; that the general landscaping of the site is in character with that generally prevailing in the neighborhood; and that all other required screening or buffering is adequate to fulfill its function, and that there be adequate lighting.
3. Capital improvements: that drainage, sewer lines, retaining walls, culverts and other capital improvements are adequate, measured by normal engineering design standards. Adequate provision for hookup to existing municipal services may be required.
 4. Maintenance: adequacy of plans for and likelihood of maintenance of the foregoing.
 5. Environmental quality. No site plan shall be approved by the Planning Board until the application has met the requirements of the State's Environmental Quality Review Act.
 6. Flooding: that the site development as proposed meets the requirements of Town of Roxbury Local Law No. 1 of 1987 otherwise known as the "Flood Damage Prevention Local Law".
 7. Location, arrangement, appearance and sufficiency of off-street parking, where necessary.
 8. Reduction of potential nuisances such as noise or light glare.
 9. When as action is within the Action within the Roxbury Historic District will require the Historic Preservation Commission's review and input.

10. Town Watershed protection. For applications for Site Plan Review proposed within the Town of Roxbury primary and secondary wellhead areas; as identified in the Towns Wellhead Protection Plan, the Town Planning Board may require changes to the proposal to avoid any resulting adverse impact on the Town Public Water Supply (PWS).

Section 3.08. Application Fees

Upon receipt of a site plan application by the Planning Board, the application fees, if any, shall be paid. Application fees shall be set by resolution of the Town Board separate from this law so in the event the established fees should need to be altered, this local law would not need to be amended.

Section 3.09. Information of Materials Submitted

The Planning Board may require an applicant provide one or more of the following items for their review depending upon the proposal.

- A. Site Plan Map — This shall be drawn at a scale of 50 feet to one inch or less and shall show existing topography at a contour interval of not more than five (5) feet. This map shall show the site area and any pertinent natural features that may affect the proposed use such as watercourses, swamps, wetlands, wooded areas, areas subject to flooding, etc.
- B. Development Plan — This is a detailed plan for the proposed development, drawn to a scale of 50 feet to one inch or less. The site development plan illustrates the location of all existing or proposed site improvements including drains, culverts, retaining walls, and fences; provides a description and shows the location of sewage and water facilities; shows location of all signs; the location of proposed buffer areas; the design of lighting facilities; all automobile parking and all parking for commercial vehicles while loading and unloading; and the location and width of all driveways, exists, and entrances.
- C. Elevations and/or Sections — Elevations and/or sections, illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, may be required by the Planning Board. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures including in the proposal, including the dimensions and height of any proposed signs.
- D. Engineering Plans — The Planning Board may require, as appropriate and within reason, engineering plans to illustrate and describe such development aspects as: road improvements, drainage system, grading plan, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary.

Section 3.10. Acceptance of Site Plan Application

The Planning Board shall, within 30 days of a site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. If the application is considered incomplete or lacking information, as outlined in Article III, Section 3.06 and 3.07, the Planning Board may in writing request further information from the applicant. The time period in which the Planning Board must make a recommendation may be extended, if deemed necessary, by written consent of the applicant and the Town Planning Board.

Section 3.11. Segmentation

The site plan application and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is cause to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

Section 3.12. Referrals to Other Agencies

- A. In addition to referral of site plans to other agencies as required by law, the Planning Board may refer site plans to other federal, state, county, local, private or quasi-public agencies for their recommendations within their particular fields of expertise. The Planning Board shall receive written reports by other agencies that have been requested to submit a report, provided that such agencies shall report within 30 days from the submission to said agency to review and comment on same. Failure of any agency to respond within the prescribed time period shall not constitute approval of said application by that agency. Instead it shall constitute that the referring agency may act upon the application without the responding agency's recommendation.
- B. When required by Section 239-m of General Municipal Law, copies of the application will be sent to the Delaware County Planning Board for review. In the event a public hearing is scheduled, the Planning Board shall mail notice, at least 10 days prior, to the Delaware County Planning Board as required by Section 239-m of the General Municipal Law. The notice shall be accompanied by a full statement of the matter under consideration, as defined in Section 239-m of the General Municipal Law. If the Delaware County Planning Board submits a report that recommends disapproval or conditional approval, then the Planning Board may override that agency's decision by a vote of a majority of its members plus one (1). If the Planning Board votes to override the Delaware County Planning Board decision, the Planning Board shall provide a written statement explaining the reasons for the overriding vote. The Delaware County Planning Board must be notified of the final action taken by the Planning Board within seven (7) days.

Section 3.13. Site Visit

The Planning Board may require a site visit prior to making a Site Plan determination. If a site visit is requested the Planning Board shall make arrangements with the applicant prior to the Public Hearing being conducted.

Section 3.14. SEQRA Compliance

The applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval.

The Planning Board shall classify the application according to SEQR, then review the Environmental Assessment Form and decide:

- A. If additional information is needed to render a determination of significance. The Planning Board will specify exactly what the applicant needs to supply. OR
- B. If the proposed action will have not have a significantly adverse impact, then a negative declaration shall be determined. OR
- C. If the proposed action will have a significantly adverse impact, then a positive declaration shall be determined and a full Environmental Impact Statement (EIS) will be prepared.

Section 3.15. Review by the Planning Board

- A. The review timetable commences the day the site plan application is finally accepted as complete at the official Planning Board meeting and SEQRA is completed, whatever is later. Within 62 days of receipt of a complete application, the Planning Board may hold a public hearing on the proposal. Within 62 days of the public hearing, the Planning Board shall render a decision. If no public hearing is held, the Planning Board shall render a decision within 62 days of receipt of an application for site plan approval. The time period in which the Planning Board must render a decision may be extended by written consent of the applicant and Planning Board.
- B. If a public hearing is required, the secretary of the Planning Board shall give public notice of the hearing in the official newspaper of the Town at least 10 days prior to the scheduled hearing. The applicant shall give notice of the public hearing, in writing, by certification of mailing or certified mail at least 15 days prior to scheduled hearing, to all owners of property within 500 feet of the proposed development property. The applicant will file proof of giving notice with the Planning Board not later than the public hearing. In the discretion of the Planning Board, failure to give notice shall be grounds to adjourn the public hearing until proper notice is complete. The applicant will re-schedule a public hearing with the Planning Board and make proper notice to property owners as detailed above.

C. The reasons for action taken on the application shall be set forth in the written minutes of the Planning Board. The Planning Board decision shall be filed within five (5) business days after such decision is rendered in the office of the Planning Board and a copy mailed to the applicant. Reasons for disapproval must be included.

Section 3.16. Planning Board Action on Site Plan

The Planning Board shall make a decision on the application within 62 days after the public hearing. The time within which the Planning Board must render a decision may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall render its decision to either approve, approve with conditions, or disapprove the site plan.

- A) Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail or regular mail with a certificate of mailing. A copy of the written statement of approval shall also be sent to the building inspector.
- B) Approval with conditions. The Planning Board may approve the site plan and require that specific conditions be met. A copy of a written statement of approval containing the conditions required by the Planning Board shall be mailed to the applicant by certified mail or by regular mail with a certificate of mailing. Upon approval, and after payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall file the site plan and a written statement of approval with conditions with the Town Clerk. A copy of the written statement of approval with conditions shall also be sent to the building inspector.
- C) Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail or by regular mail with a certificate of mailing along with a letter stating the Planning Board's reasons for disapproval. A copy of the written statement of disapproval shall also be sent to the building inspector and to the Town Clerk.

Failure of the Planning Board to act within the time period specified in this section or Section 3.15 and as extended upon agreement of the parties shall constitute Planning Board approval of the site plan as submitted or last amended. The decision of the Planning Board shall be filed in the office of the Town Clerk and a copy mailed to the applicant.

Section 3.17. Compliance with site plan approval

All proposed improvements or development indicated on the approved site plan map shall meet the requirements of all applicable codes and laws of the town, county, state, or federal governments and other agencies with jurisdiction over matters pertaining to site development.

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Code Enforcement Officer or others as deemed necessary by the Planning Board. If a performance guaranty is used, the applicant shall be liable for performance beyond the amount of the guaranty whether still in title to the property or not and all grantees shall be joint and severally liable. The applicant and the Planning Board shall sign a memorandum of agreement, at the applicant's expense, and shall file said memorandum in the office of the Delaware County Clerk under the landowner's name at the time of issuance of the certificate of occupancy to give notice of the conditions to be met to prospective purchasers. The Planning Board shall also file a statement satisfying the conditions upon completion. The Memorandum of Agreement shall provide that the applicant must reimburse the Town for any costs incurred by the Town in enforcing the Memorandum of Agreement arising from the applicant's (or its successor's) breach thereof.

Section 3.18. Site Plan to be binding

The site plan, as approved by the Planning Board, shall be binding upon the applicant. Any changes from the approved plan shall require re-submission and re-approval by the Planning Board. Site plan approval shall remain in effect for a period of one (1) year following the date of approval. The Planning Board, upon request from the applicant, may, for good and sufficient reason, extend this time period for additional one (1) year increments.

Article IV. Other Conditions

Section 4.01. Other Laws and Regulations

This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

Section 4.02. Court Review

Any person aggrieved by a decision of the Planning Board with respect to Site Plan Review may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision by such Board in the office of the Town Clerk.

Section 4.03. Penalties

The reasoning behind this local law section is that without it there would be no enforceability to the law. It is hoped that prior to any penalties being given out that any and all compliance issues can be remedied. However, in the event that repeated warnings are not enough to persuade a person, firm, or corporation that is in violation of this local law to comply with it, penalties have been put in place.

Any person, firm, or corporation who violates any provision of this local law shall be guilty of an offense against said local law and subject to a fine of not more than \$350.00 or imprisonment for a period of not more than six (6) months, or both such fine and imprisonment for a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period of not more than six (6) months, or both, and, upon conviction for a third or subsequent offense all which were committed within a period of five (5) years, punishable by a fine not less than \$700.00 nor more than \$1000.00 or imprisonment for a period of not more than six (6) months, or both. The imposition of penalties for any violation of this local law shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this local law shall not be held to prevent the enforced removal of conditions prohibited by this local law. Each week thereof shall constitute a separate and distinct violation.

In the alternative to the above criminal enforcement, the Town Attorney, upon approval of the Town Board, may commence a civil action in the Supreme Court to enforce and/or compel compliance with the terms of the site plan approval and any corresponding Memorandum of Agreement against the applicant and any successor in interest. If the Town substantially prevails in such action, the applicant and any successor in interest must reimburse the Town for any and all costs incurred by the Town to enforce the terms of the approved site plan. If said costs are not paid within thirty (30) days from receipt of notice from the Town that payment is due, the amount due and owing will be added to the following year's real property tax levy against the parcel covered by the site plan approval.

Section 4.04. Separability

Should any section or provision of this law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so declared to be invalid.

Article V. Definitions

Section 5.01. Word Usage

For the purpose of this law, certain terms and words used herein shall be used, interpreted and defined as set forth in this article. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular tense include the plural; words used in the plural tense include the singular; the word "herein" means "in this law". The word "shall" is always mandatory. The word "may" or "should" is permissive. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meanings and customary usage.

Section 5.02. Definitions

Accessory Structure or Use — a secondary structure or use on the same lot or on a contiguous lot in the same ownership which is associated with principal use or structure, and which is incidental and subordinate to the principal use or structure such as a separate garage or shed, fencing, and recreation facilities (e.g. pool, tennis court, etc.)

Agricultural Use — the use of a parcel of land for agricultural purposes including tilling the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, aquatic farming, harvesting of tree products and animal husbandry; also included are the necessary accessory uses and structures for packing, treating, and storing of products, produce and equipment, provided that the operation of any such accessory use shall be secondary to that of normal agricultural activities.

Applicant — the person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

Area, Floor — the total interior floor space measured in square feet of a structure.

Buffer Area — an undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

Building — a structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure" as well as receiving and

transmitting commercial, radio, television, and other utility communication towers, mobile homes, and modular homes.

Curb-cut — a defined opening to provide vehicular access from a public highway to a lot or property.

Drainage — a system of swales, ditches and culverts, catchbasins and piping to convey stormwater runoff to retention areas and stabilized discharge points.

Driveway — private entrance drive that is less than five hundred (500) feet in length and which commonly leads to the principal use.

Easement — the right to use the land of another, obtained through the purchase of use rights from a landowner, for a special purpose consistent with the property's current use.

Egress — a one-way access from a property leading onto a public highway or private road.

Environmental Assessment Form (EAF) — a form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or long SEQR EAF will be completed.

Environmental Impact Statement (EIS) — a document prepared pursuant to SEQR, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

Erosion — the wearing away of surface soils by action of wind or water.

Grading — the leveling of land for site development purposes including construction of roads, building construction, drainage areas, and parking.

Home Occupation — any commercial use customarily conducted entirely within a dwelling or accessory structure, provided that such use is carried on by the residents of the dwelling, is clearly incidental and secondary to the use of the dwelling or accessory structure, and does not significantly change the character of the dwelling or accessory structure.

Ingress — a one-way access from a public highway or private road leading into a lot or property.

Lighting — the act or manner of giving light or illuminating and /or the apparatuses used to illuminate.

Lot — a parcel of land whose boundaries are established by some legal instrument, such as a recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

Mobile Home (House Trailer) — a moveable or portable dwelling unit designed and constructed to be towed on its own chassis, comprised of a frame and wheels, connected to utilities, and designed and constructed without a permanent foundation. Mobile homes are subject to the approval (seal) of the Secretary of the US Department of Housing and Urban Development.

Noise — any undesired audible sound, see the decibel chart in the appendix.

Off-Street Parking — area provided for parking not on any public or private road.

Parking Space — an area reserved for the parking of a motor vehicle.

Planning Board — the duly designated Planning Board of the municipality, county or region. The board is created by ordinance with responsibility for reviewing and approving applications for development and preparation of comprehensive plans.

Road — a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

Road, Private — an access drive or roadway that is longer than five hundred (500) feet, privately owned and maintained, and not meant for use by the general public.

Road, Right-of-Way — an area defined by a boundary, which provides for road construction, maintenance, improvement and/or widening.

Runoff — surface water that flows onto, within, and/or off of the site area.

Screening — vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land use.

Septic System — a subsurface sewage disposal system, which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of waste.

SEQRA — State Environmental Quality Review Act — 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, Section 8-0113), incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

Sign — a name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a

building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. (However, a sign shall not include any display of official court or public office notices nor any official traffic devices nor shall it include the flag emblem or insignia of a nation, state, county, municipality, school, or religious group).

Site Plan - maps, drawings, supportive data describing the project proposal or development plan for one or more lots on which are shown the existing or proposed conditions of the lot, submitted to the Planning board for review and approval.

Sketch Plan — conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

Structure — anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc. excepting outdoor areas such as paved areas and walkways.

Watercourse — a channel in which a flow of water occurs either continuously or intermittently.

Water, Groundwater — the water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

Water, Surface — water contained in streams, rivers, ponds, wet areas, lakes and other water bodies and watercourses, or that drains across land.

Wetlands — lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation.