

TOWN OF LANSING
Local Law No. __7__ of the Year 2025

**A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM ON LAND USE
DEVELOPMENT REVIEWS AND APPROVALS AND LAND DEVELOPMENT
ACTIONS FOR A PERIOD OF THREE HUNDRED AND SIXTY-FIVE DAYS**

Be it enacted by the Town Board of the Town of Lansing as follows:

Section 1 **TITLE:** This local law shall be known as the “local law” or the “moratorium,” each as the context thereof so admits or requires. Among the purposes of this local law are to freeze-in-place current land uses and development activities (such as construction) while the Town undertakes to fulfill the requirements of a New York State grant that is funding the comprehensive update of the Town’s zoning code, including the terms and standards for discretionary reviews (such as site planning, and related land use reviews), the allowed uses in differing areas and zones of the Town, and to implement the multi-year project the Town has long considered to implement environmental protection overlay districts (“EPOD”) to protect important riparian areas, Cayuga Lake, and other unique ecological, environmental, cultural, aesthetic, and archeological resources of and in the Town.

Section 2 **AUTHORITY AND INTENT:** This local law is a police power and land use regulation. It is intended and declared to address matters of local concern. This local law is intended to be consistent with and adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to Town Law §§ 130 and 261, *et seq.*, the New York State Constitution Article IX, Municipal Home Rule Law § 10, and the Statute of Local Governments §10. It is the intent of the Town to consider and duly update and amend its zoning law and related land use regulations (including site plan, special permitting, and subdivision codes, and potentially adding EPODs and open development area rules), among other code amendments as are necessary or desirable to implement the Town’s Comprehensive Plan and several significant zoning changes the Town has been considering for years. The time is now right to undertake a moratorium given that the New York State grant has been approved, the Town has created the required citizens committee to help steer the amendment of the zoning code, a third party consulting firm with expertise in planning and zoning has been engaged, its agricultural and farmland protection plan has been updated, and the Town has completed its open space index, its natural resource inventory, a viewshed analysis of important areas in the Town, and has updated agricultural zoning rules in parts of the Town.

Section 3 **PURPOSES AND GOALS:** The following are among the purposes of this local law:

- A. The Town Board places moratorium on the consideration, approval, and construction of certain residential and almost all commercial and industrial projects, including those land use and development activities subject to subdivision, special permitting, site plan reviews, sign permitting, and junkyard permitting, among others specified in this local law, pending the completion and adoption of an amended zoning code (and other related land use development regulatory updates). After careful deliberation, the Town Board duly finds and declares that the Town's lack of an updated comprehensive zoning scheme likely does and will prevent or impede the accomplishment of the goals and community visions as are outlined in the Town of Lansing's Comprehensive Plan (the "Comprehensive Plan," which term shall be herein deemed to include both local and state master plans and policies implemented since the adoption of such Comprehensive Plan, such as, but not limited to, the Natural Resources Inventory, the Open Space Index, the designation by New York State of the Cayuga Lake Scenic Byway, Updated Flood Maps, the Town's recreation and pathways plans, and updated master plan being pursued concurrently with the zoning and code updates, etc.). In accordance with these determinations, the Town Board believes that it is necessary to enact a temporary moratorium so that the Town and its boards, officers, and employees can, during the pendency of the moratorium, consider and adopt resolutions, policies, and local laws necessary to implement changes to the Town Code and local laws, and consider and adopt an updated zoning code, which will promote and maintain the rural character, livability, and natural resources of the Town, and protect the health and safety of its residents.
- B. In accordance with its Comprehensive Plan the Town Board declares that resource and land use planning are central and vital to public health, safety, land values, and rural character of a residentially-oriented small town in the Finger Lakes Area of Upstate New York. Thus, the Town desires to consider any recommended land use regulations that guide future residential and commercial land use developments in order to ensure that all projects are allowed, sited, and reviewed in congruence with the vision and goals of the Comprehensive Plan, including to ensure that impacts are managed by appropriate land use regulations and resource protection laws and requirements. These may include measures that guide not only development within a single parcel but also shape the nature and distribution of development within the boundaries of the Town in order to promote the goals and aspirations of the community as identified in the Comprehensive Plan.
- C. The Comprehensive Plan calls attention to the unique vulnerability of Lansing to loss of rural character and natural resources by unplanned growth, which can be avoided or controlled by updated land use regulations, including zoning. The Comprehensive Plan stresses the importance of maintaining the rural nature and natural resources of the Town and protecting important soil and water resources, while balancing a vibrant local economy that encourages harmonic growth and

businesses and commercial development that integrate well with the Town's goals of remaining and agriculturally oriented.

- D. Having in place a 365-day window to consider zoning and code updates, for the purposes of enhancing and implementing the vision of the Comprehensive Plan, including regulating where certain land uses may be sited, is therefore deemed to be vital to the public health, safety, and interests of the Town and its citizens, visitors, and surrounding communities, and to the natural resources of the Town, to Cayuga Lake, to the Finger Lakes areas of Central New York, and for the remarkable inventories of natural areas and unique ecological communities found in this area of New York State (which the Comprehensive Plan seeks to preserve and protect). At the same time, there are areas well suited to business and light industry, and several business parks are situated in areas that need further examination to determine the potential to expand and amend such zones. Without a moratorium, projects and land uses could arise that run contrary to the harmony the zoning seeks to achieve between varying land uses and the need to protect vital local and natural resources.
- E. A comprehensive zoning amendment and code revision plan is selected as the most appropriate way to achieve the goals of, and implement the visions within, the Comprehensive Plan. Further, because the New York State grant is itself 18-months long, it is possible that, despite diligence, not all updates to zoning and the Town Code will be completed within 365-days. Hence, the Town Board declares its intent to try to complete and implement all zoning and code changes within said timeline, but it also reserves the right to extend this moratorium when needed to fulfill the purposes of this local law, including to ensure full public participation and comprehensive environmental reviews of any zoning and code proposals so developed.

Section 4 **FINDINGS AND SUPPORT:** The Lansing Town Board finds, determines, and makes the following declarations:

- A. Certain actions subject to discretionary review in and under the Town Code, such as special permitting, site plan reviews, subdivision reviews, planned development area reviews and approvals, sign permits, and junkyard permits (hereinafter "Actions"), may affect the overall nature and patterns of development within the Town. Unchecked and non-regulated Actions create unreasonable risks pertaining to the loss of important local resources of value, as well as create potential conflicts between residences and other uses. These potential losses and conflicts require consideration and mitigation to preserve desired characteristics, resources, and harmonies between adjacent uses in a rural environment.
- B. The Comprehensive Plan identified the following issues, plans, goals, and needs:

1. The adopted Future Land Use Map shows and demonstrates that the Comprehensive Plan envisions multiple new zones regulating land uses, including to achieve a better compatibility between various principal land use types by implementing zones that themselves can function as a buffer. Examples include Rural Agricultural/transitional Areas, differentiating residential zones based upon allowed uses, density, and relationship to Cayuga Lake, differentiating commercial zones based upon land use intensities, and developing recreational and special use areas or zones, from complete streets corridors to steep slopes, community facilities, and EPODs.

2. The Comprehensive Plan notes the important cultural resources that need protection, including examinations of buildings that should be listed in the National Register of Historic Places, its parks and lakeshore, and like areas that need to be protected and developed to enhance the quality of life in the Town (see e.g., pp. 9-10, see *infra*).

3. The Community Vision Statement (pp. 14-15) outlines how the nature of this rural, mixed use community needs to value and protect a wide range of natural and scenic resources, including Cayuga Lake, various streams, gorges, parks, trails, rural landscapes, and scenic views, all of which contribute significantly to the community's growth and economic base. Allowing unchecked development during the pendency of the zoning update process, particularly in the face of pressures growth can bring, can fundamentally alter the character of the Town if not properly guided through zoning and related Town Codes. Thus, the Comprehensive Plan emphasizes a need to proactively seek methods that prevent the degradation of these resources as the Town grows, and to encourage small business and industry that use safe and responsible practices.

4. Agricultural goals and policies (pp. 33-34) mirror a need for a climate where farming remains both feasible and viable, including through the concomitant need to protect soil, environmental quality, natural resources, and provide scenic working landscapes that preserve the rural character and enhance the quality of life in the Town. Without updated zoning to coordinate recent agricultural zone changes and the EPODs that crisscross these areas, this goal could be easily impaired. Examples include farmland sales that are converting agricultural and farmed lands into residential subdivisions. The population growth that is fueling housing development and increasing land prices are again part of this issue (see p. 35), and the Town Board has determined that examining the rules and locations of current residential zones, as well as diversifying such zones, is critical to affordable housing and the preservation of active farmlands and rural vistas.

5. Thus, the Comprehensive Plan again stresses the need to strike a balance between competing land uses, such as residential, commercial, agriculture, and recreational and open spaces (see p. 40). The Town Board, the Planning Board, the Conservation Advisory Committee, and others, have recently completed the studies to inform the changes needed to the Town Code and zoning regulations to find that balance, which has been lost or impaired since the last major zoning overhaul in the 2003-2005 era. Significant resources needing protection are discussed on pages 41-42, and included are the parks, Cayuga Lake (and its tributaries), the steep slopes and gorges near the lake, the agricultural areas, and state parks and recreation areas, and the Salmon Creek Valley (See also pp. 44-45, 62-64).

6. For commercial, institutional, and industrial uses the plan stresses the importance of “place” (see p. 47). To remain resilient and balance these needs, there is a need to update zoning to emphasize place-based economic development and try to avoid the sprawl and creep that can bleed harmful or inappropriate commercial development into residential and agricultural areas (this issue is also addressed in relation to existing business parks on pp. 50-51). In a related vein, developing appropriate zoning regulations for hamlets (pp. 54-55) is critical to this sense of place, as is ensuring that the small, localized services that dot hamlet areas maintain their character and augment the sense of place for hamlets by avoiding uses deleterious to such areas, and regulating use impacts that can impair orderly hamlet development and quality of life.

7. Developing walkable communities, recreational assets, tourism-related businesses, and the Town Center area are all matters heavily emphasized. Towards this end the Comprehensive Plan recognizes the need to utilize mixed use zones, senior housing and aging in place resources, form based zoning, planned development areas, conservation or clustering subdivisions, and other tools to promote housing density in proper locations, and to similarly avoid residential sprawl and the loss of farmland that the current zoning “allows” or, at the least, does not discourage (see e.g., pp. 57-60).

8. Most importantly, the Comprehensive Plan sets forth specific goals and strategies to achieve the vision of the Comprehensive Plan, most of which have long been understood to address the need to update zoning given two decades have passed since the last zoning update or overhaul. During those decades, the Town has changed, and the development pressures have created new challenges relative to preserving the natural resources and rural, residential character of the Town. Included in the Comprehensive Plan are goals aimed at developing multiple agricultural zones, farmland preservation, and densification of residential areas in the southern part of the Town. Also discussed is utilizing farmland protection grants and zoning tools to achieve these goals (see pp. 66-68).

Enhancing utilities and broadband to support residential development and businesses, as well as examining areas served by mass transportation, and using these factors as identifiers for nodal or clustered development is also identified as a goal that the Town Board believes best achieved through updated zoning codes (see e.g., pp. 69-70). Goal LU-1 through LU-4, focus on land use and development, and are direct respecting this need (pp. 70-72). These goals note things like density, clustering, environmental protection, site-specific commercial and light industrial, developing EPODs, promoting hamlets and preservation of character, using infill development standards to prevent sprawl. Similarly, natural resource goals are highly relevant and form a core purpose justifying this local law (pp. 72-75), including because they specifically reference goals to promote and protect Cayuga Lake, to protect steep slopes, to address stream corridors, and to adjust and steer development to areas that can support higher density and clustering. This, in turn, protects open spaces, and protects air, soil, and water quality, etc.

9. The Town Board believes that an updated zoning scheme, with supporting and updated Town Codes, can help implement this vision by steering residential density to a “place” where it can be supported, promoting infill, and protecting other areas from such densification and sprawl, from agricultural lands to the community’s hamlets (see also housing goals at pp. 80-82). Similar goals focusing commercial and industrial uses to proper “places,” by promoting infill and having zoning promote existing local economic drivers such as agriculture and tourism (pp. 76-77), are in the zoning toolbox for the current zoning code amendments already underway. The Cultural Resources and Hamlets goals and recommendations are replete with similar and specific goals and strategies as to how updated planning and zoning can protect these vital resources (pp. 78).

10. Directly on point is Goal HN-6 (p. 82): “Evaluate new laws/ordinances – as needed – in the Town of Lansing to cover existing and new concepts in housing.”

11. Also directly relevant is HN-7 (pp. 82-83): “Evaluate new laws and ordinances to protect both property owners and renters.” This goal suggests specific land use and zoning matters that need to be addressed, such as short-term rentals and, when read with other housing goals and recommendations, the Town Board has identified a need to update its decades old zoning law to implement these recommendations, as well as achieve a regulatory system that promotes the shared community vision of the Comprehensive Plan.

12. The “Future Land Use” section (p. 85) also directly supports zoning and code updates, including through its express references to undertaking a reevaluation of traditional zoning practices to consider form-based zoning, mixed use areas, and other tools to address perceived regulatory gaps and known short-falls of traditional “Euclidian” zoning (see also pp. 87-91, covering mixed use, increased

density goals, overlay zoning, and like matters). The goals for future land use practices (pp. 92-93) specifically address several matters directly achievable through zoning and codes, from new zones, new zoning standards, and complete streets design criteria. A direct reference at Goal FL-1F reads as follows:

“Establish a process to rewrite the Town Zoning Ordinance that includes the input of Planning Board. Included should be recommendations to include new Agricultural Regulations and form-based tools / overlay zones which define building setbacks, heights and levels of detail, to create a new level of architectural standards. NY State best practice guidelines should be utilized, and public participation should be sought wherever possible.”

13. Thus, as can be seen, replete throughout the Comprehensive Plan, are references to the use of enhanced land use controls, including traditional zoning, to effect and support the community’s vision for its future, including but not limited to: (1) increased support of local businesses and opportunities for new small and home-based businesses; (2) encouraging appropriately scaled and regulated businesses that integrate with the rural residential and agricultural nature of the Town; (3) developing stronger reviews of commercial and retail development, including architectural, form, and locational controls; (4) promoting residential development guidelines that include augmenting affordable housing through placement, incentive zoning, clustering, and creating infill and mixed use areas (such as PDAs) to create walkable communities; (5) promoting and protecting ecological values that promote air, water, and agricultural resources, as well as conserve and enhance environmentally sensitive areas, including using clustering and other land development tools to help preserve open space and recreation areas; (6) and, overall, to promote the Town as a vibrant and desirable community to enjoy the rural lifestyle, highlighting agricultural activities, the natural environment, and an intelligently built environment that enhance a sense of place and promote a sense of community for the Town.

- C. It is anticipated that the Town and the Town’s recently formed Zoning Advisory Committee will determine the scope and forms for comprehensive zoning and regulatory update, including by demonstrating why the same are beneficial, needed, and how the same will help implement the vision of the Comprehensive Plan. It is believed that one year is needed to maintain the *status quo* and allow this process to continue without the risk of large projects or changes that may defeat the goals sought to be implemented. At the same time, the Town Board recognizes that certain hardships can arise from a moratorium, and thus also includes a variance provision to allow relief in a proper case, by mainly implementing standards similar to the use variance standards as already exist in New York State Town Law to provide relief from zoning and land use regulations. The Town Board believes that the amended zoning and its regulatory framework may become well

identified and drafted in that year, such that the need to continue this moratorium should be re-visited at that time to assess whether, as a temporary measure, the same is no longer necessary to maintain the *status quo* pending whatever changes or updates may still then be needed or desired to help implement the vision of the Future Land Use Map and Comprehensive Plan.

- D. The Town Board is concerned that protection of the Town's interests, and the public health and welfare interests so implicated, could or would be damaged or subverted if Actions (as defined in § 5, hereunder) were to be entertained or approved before a comprehensive zoning amendment is evaluated and adopted, or before the Town could consider modifications of or additions to other town codes (e.g., the subdivision code), if also deemed necessary or desirable to address land use and public health and welfare issues. Accordingly, to address these issues, and to protect the public health, safety and welfare, it is the intention of the Town Board to stay the review or approval of Actions during the limited time the Town needs to evaluate and complete zoning and code updates and amendments as will best implement the vision and goals of the Comprehensive Plan.

Section 5 **PROHIBITED ACTIONS AND REVIEWS:** For a period of three hundred and sixty five (365) days from the effective date of this local law, the Town Board hereby declares a moratorium prohibiting each of the following "Actions" in the Town, regardless of the submittal or receipt of any application prior to the effective date of this local law, unless such Action is exempt under § 6 hereunder:

- A. The consideration or review by the Town, or any of its boards or committees, of any land use or development proposal that requires any site plan review or approval, any special permit review or approval, any sign permit, any planned development area approvals or reviews, or any subdivision review or approval that requires any discretionary or environmental review. Also included is any site development or construction that arises from or in relation to any such Action and its reviews, approvals, or permitting.
- B. The proposed siting of, or development or use of land for, any commercial, business, retail, manufacturing or industrial use or operations. For purposes of construing the scope of these terms, traditional dictionary-based and land use definitions shall apply, and in the event of any ambiguity an owner or applicant shall be required to seek an interpretation of this local law from the Enforcement Officer or a variance in order to proceed with any application or the review or approval thereof.
- C. The issuance of any permit by the Town of Lansing for highway or utility work in connection with any Actions prohibited in or by this local law, or the issuance of

ground disturbance permits, SWPPP reviews or approvals, or building permits or approvals in relation to any Actions prohibited in or by this local law.

- D. The issuance of any junkyard permits, and related site plan review or other approvals, whether arising under Town Code Chapter 158 or otherwise.
- E. The creation or approval of mobile or manufactured home parks, whether as residential subdivisions, PDAs, or under Town Code Chapter 170.

Section 6 **EXEMPTIONS:** The following Actions are exempt from this moratorium and the terms and requirements of this local law:

- A. Any Action that has received final approval or conditional final approval from the Town Board, the Planning Board, or the Zoning Board of Appeals, prior to the effective date of this local law.
- B. Any traditional agricultural Action that is: (i) protected under Article 25-AA of the New York State Agriculture and Markets Law; and (ii) exempt or not subject to review under the Town's current subdivision, special permitting, or site plan review procedures and codes.
- C. Traditional single-family and two-family residences, and accessory residential buildings, which are to be constructed and emplaced upon an existing lot that is of a size, character, and design so as not trigger review under the current Town Code.
- D. Any matter permitted or allowed pursuant to a Zoning Permit or Special Conditions (reference Town Code §§ 270-28 and 270-35), but only so long as no discretionary or environmental review is required.
- E. Any residential subdivision of eight lots or less when sited wholly within existing R1, R2, or R3 zones. For this purpose, and for the purpose of determining the number of lots, all phases of such subdivision, and all potential future related subdivisions that are or may become part of a larger development or common plan, shall be counted towards this numerical limit. If any applicant, landowner, or developer seeks not to develop land that would or could naturally be part of any such subdivision (e.g., if future phases were to be mapped out), the lot counts for the excluded lands may be calculated by utilizing the average lot size in the sketch plan or application as submitted to arrive at a lot count for the purposes of determining whether the subdivision is, or is not, exempt from this local law. In other words, applicants may not seek to develop only a portion of their lands to work around or avoid the import and requirements of this local law.

- F. Any site plan for a small retail, commercial, or business or professional office where the square footage of the building, office, or improvement involved is under 3,000 square feet, employs no more than ten persons, and the area of disturbance for the total site does not exceed 2 acres. Larger buildings or sites, and larger projects, may not be segmented or sought to be developed in phases to seek to avoid this requirement.
- G. Any sign permit where the business or facility is a lawfully existing use and has a certificate of occupancy, and where the sign is: (1) being replaced or relocated; (2) not being increased in size beyond the lesser of any limits applied by the Town Code or 150% of the size of the current sign being replaced or relocated; and (3) no lighting, increase in lighting, or increase in the intensity of any lighting plan is being proposed or will result.
- H. Any appeal or review seeking a Variance (or any waiver) in relation to an Action that has already been approved, and which meets the requirements of §§ 6(A), 6(B), or 6(C), above.
- I. Any matter where the siting of the facility, use, or operation is subject to review by New York State or the federal government, specifically including matters where Town review, approvals, or permitting are superseded.
- J. Any application for modifications, enlargements, collocation, and permits and approvals for cellular and digital service towers and facilities, but only where the facility or tower is regulated by the FCC or is a service tower for a recognized New York State utility provider subject to regulation by the New York State Public Service Commission.
- K. Any Action or matter for which a Variance is granted under § 7, hereunder.

Section 7 **VARIANCES:** Should any applicant or owner of property affected by this moratorium suffer an extraordinary hardship as a result of the temporary requirements or limitations set forth in this local law, said applicant or owner may apply to the Zoning Board of Appeals ("ZBA") in writing for relief from strict compliance with this moratorium upon submission of proof of such extraordinary hardship and the meeting of the standards and requirements set forth in this local law (hereafter, a "Variance"). For the purpose of this moratorium, an extraordinary hardship shall not be the mere delay in being able to apply for any determination or approval related to an Action during the period of the moratorium. Any applicant and any property owner may apply to the ZBA for a Variance from any one or more of the requirements or restrictions set forth in this local law and, upon good cause shown, the ZBA may grant such relief, or so much relief as said board may determine to be necessary and appropriate in accordance with the

following application and review criteria set forth for Variances from this local law, as follows:

A. Substantive Requirements: No Variance seeking relief or partial relief from the requirements and restrictions of this moratorium shall be granted unless the ZBA shall specifically find and determine, and set forth in its resolution granting such Variance, that:

1. That the failure to grant a Variance will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public, and greater than the potential harm to the public welfare that could result from the granting, in whole or in part, any Variance. In considering this factor, the ZBA may consider the unique nature of the land in question, including whether the site of the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Variance. The hardship should be unique to the applicant or its land, and not a form of hardship suffered generally by others in the Town, whether across a spectrum of a particular land uses, in a particular neighborhood or area, or by any group of citizens generally. A hardship should generally be a unique, invidious harm that should, in fairness or constitutionally, be mitigated by carving out an exception to this local law and the public interests it duly seeks to protect and promote.

2. That the granting of a Variance will have no clear, adverse effect upon the goals or objectives being now pursued or undertaken as outlined in this local law, including but not limited to efforts to protect and preserve the essential character and important resources of the Town, including the avoidance of potentially deleterious or irreversible impacts to residential life, open spaces, agricultural resources and farming, or wildlife corridors and other significant ecological resources.

3. That the Variance is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be or become, reasonably harmonious with neighboring uses and the Comprehensive Plan.

4. That the extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in-title or interest, and such alleged hardship has not been self-created. In considering this factor, the ZBA may consider whether the need for a Variance is based in whole or in part upon any delay or any lack of maintenance or repair of the property or improvements thereupon, including a consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been

materially promoted or affected by such lack of maintenance, repair, or the property condition and causes thereof.

5. That the impact and harm to applicant in denying a Variance will not be outweighed by the benefit to the community in preserving the *status quo* pending completion of the work envisioned by this local law. In considering this factor, the ZBA may consider the applicant's or landowner's vested rights and monetary investment "in the ground," but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken in consideration of this factor. However, under no circumstances should the costs and expenses of a Variance application be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships. Further, investment "in the ground" refers to an applicant having vested property rights based upon prior proper approvals, compliance with approval conditions and building permits, and having purposefully and regularly pursued completion (e.g., as opposed to "racing the clock" to argue a right has "vested").

6. That the application for a Variance is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the ZBA had a full and fair opportunity to consider the facts, bases, and arguments upon which the Variance application and any Variance approval (or denial) was based. In evaluating this factor, the ZBA may consider whether the applicant advanced new theories, facts, or arguments not set forth in the application as may have unduly and adversely impacted the ZBA's ability to conduct a full and fair hearing, as well as the rights of participants and witnesses to prepare evidence and address the application and Variance request as submitted.

7. That any Variance is supported by a negative declaration of environmental impacts, if required, under SEQRA, or a findings statement under a completed Environmental Impact Statement process undertaken in accordance with the statutory and regulatory requirements of Article 8 of the Environmental Conservation Law and its implementing regulations of 6 NYCRR Part 617. Similarly, a FONSI or similar finding or declaration is required if the matter is subject to the federal environmental laws and regulations arising under the National Environmental Policy Act of 1970, as amended (commonly referred to as "NEPA").

8. That no relief granted in respect of the Variance is greater than the relief requested by the applicant in their application or petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship should a Variance be granted in whole or in part.

- B. Procedural Requirements: The following process and procedures shall apply and, whenever there is doubt as to the proper process or procedure, the due process rights of property owners shall be deemed primary, particularly including the right to petition for relief, the right to a timely hearing, the right to be heard, and the right to have a full and fair opportunity to present evidence and testimony in favor of any application for a Variance:

1. Upon submission of a written application to the Town Clerk by any person seeking a Variance, the ZBA shall schedule a public hearing within 45 days. Such hearing shall be noticed by publication and posting at least 10 days before the hearing, with a similar minimum of 10-days' notice being provided to applicant by personal service or by mailing notice thereof to the address of the applicant as shall be set forth in such application is also required.

2. An application shall consist of all general materials required for a general sketch plan meeting or application. If desirable or beneficial in the opinion of the applicant, additional materials may be submitted showing project descriptions and site plans, building designs, and renderings, surveys, and like materials. The applicant shall also include a delineation of the issues, facts, conditions, features, and mitigation of impact features as will be proposed in such Action, including such information as applicant believes supports the application for, and findings required, for the issuance of a Variance. The applicant shall be solely responsible to determine the extent to which factual and evidentiary matters are submitted and relevantly explained in the application seeking a Variance, and all applications shall contain a subscribed certification of the applicant stating that the foregoing application, and its exhibits, constitute the applicant's full and complete application and set forth all bases upon which applicant relies upon for a Variance.

3. At said public hearing, applicant and all other persons shall be entitled to submit evidence and have an opportunity to be heard, and the ZBA shall hear and accept all evidence regardless of formal rules of evidence, instead giving weight to such testimony and evidence as it deems worthy of relevance and reliability.

4. Within 30 days of the close of the public hearing or 45 days of the date of the first public hearing (whichever shall first arrive) and after the completion of any environmental review(s), the ZBA shall issue its written findings and decision and grant the Variance in whole or in part, with or without conditions, or deny the same. Denial without prejudice to re-applying is proper where the basis for denial is any of the following: (i) the application was incomplete; or (ii) the applicant advanced a new theory, or new facts or evidence, which were not addressed or described in the application. The fact that a hearing was conducted or concluded is not an acknowledgement that any application was substantially complete at any

time, and the occurrence of a hearing shall be irrelevant to the question of whether the application was complete.

5. All determinations as to the criteria and findings set forth for Variances shall be subject to review only in accord with Article 78 of the New York Civil Practice Law and Rules. Approving a Variance in whole or in part is not an approval of the Action. If any Variance is granted, the Action must still undergo standard reviews under the applicable provisions of state law and the Town Code, including environmental reviews as required under Article 8 of the New York Environmental Conservation Law and its implementing regulations.

6. All persons who submit testimony, applications, documents, surveys, site or development designs, or other evidence undertake to prepare and submit the same at their own and sole cost and expense, including all surveying, engineering, planning, legal, and general or other costs and expenses. The results of, and determinations issued upon, any Variance application entitle no person, applicant, party, or participant to recover any portion of such fees, costs, or expenses.

Section 8 INTERPRETATION AND ENFORCEMENT: Any matter or determination as to the application or meaning of this local law shall be undertaken by the Town's Zoning Officer, who shall submit and file a written determination on all questions as arise hereunder, including inquiries as to whether a particular matter or proposal will, or will not, be prohibited or affected by this local law. All such interpretations and determinations are subject to review in accordance with Town Law § 267-a. Any violation of this local law shall be civilly or criminally enforced under law, including under Town Law § 268 and in accord with the Town Code as if the zoning, subdivision, or other applicable Town Code had been violated.

Section 9 VALIDITY AND SAVINGS: If any provision of this local law, whether as written or applied, shall be adjudged by any court or tribunal of competent jurisdiction to be invalid or unenforceable, such judgment or determination shall not affect, impair or invalidate the remainder of this local law, shall be confined in its operation and interpretation only to the circumstances, persons, and provisions of this local law directly involved in the controversy in which such judgment or determination shall have been rendered, and such invalidity or unenforceability shall not be applied to other persons or circumstances. If such provision may not be so saved then it shall be deemed severed from this local law, and the balance hereof shall survive.

Section 10 LIMITATION UPON TOWN LIABILITY: The Town, and its officers, employees, and agents shall not be liable or responsible for any injuries to persons or damages to property or property rights due to the Town's actions or failures to act under or pursuant to this local law, unless it is proven to a reasonable degree of certainty that: (i) such alleged act of, or failure to act by, the Town was a primary cause of such injury,

loss, or damage; and (ii) such act or failure act was principally caused by a willful or intentional act of the Town, its officers or agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where none exists at law or in equity.

Section 11 **ARTICLE 78:** Any person aggrieved by any decision or determination of the ZBA in respect of the application of this local law, or the issuance or denial of a Variance hereunder, may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said Article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

Section 12 **EFFECTIVE DATE:** This local law shall take effect immediately, and for good cause shown may be extended for such periods of additional time as the Town Board may declare in accord with law.