

**TOWN OF CAROLINE, TOMPKINS COUNTY, NEW YORK  
LOCAL LAW NUMBER XX OF 2018**

**SITE PLAN REVIEW LOCAL LAW**

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**TOWN OF CAROLINE, TOMPKINS COUNTY, NEW YORK  
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**SITE PLAN REVIEW LOCAL LAW**

**BE IT ENACTED** by the Town Board of the Town of Caroline as follows:

**Article I - Introductory Provisions**

**1.010 Enactment**

The Town Board of the Town of Caroline, Tompkins County, New York, does hereby adopt and enact the Town of Caroline Site Plan Review Local Law pursuant to, *inter alia*, the authority and provisions of § 10 of the Municipal Home Rule Law and § 274-a of the Town Law.

**1.020 Short Title**

This local law shall be known as the “Site Plan Review Law” or, herein, as the “local law.”

**1.030 Intent and Purpose**

Through Site Plan review, it is the intent of this local law to promote the health, safety and general welfare of the Town and its residents by providing for the review and approval of Development plans to ensure that land Development occurs in harmony with surrounding uses and the Town’s Comprehensive Plan, and mitigate impacts to neighboring parcels, public facilities, infrastructure, natural environment, and climate. The Site Plan review process is intended to guide and protect the Town’s physical development so that it takes place in an orderly, efficient, safe, and economical manner which maintains and reflects the uniqueness of the Town and the character of the Town as a rural community and a beautiful and desirable place in which to live. It is further the intent of this local law to ensure that Development complies to the greatest extent possible with the currently adopted Town of Caroline Comprehensive Plan. It is not the intent of this local law to prohibit *per se* any Land Use Activities, but to ensure all new Land Use Activities subject to Site Plan review as specified in this law will meet the standards set forth in this local law.

**1.040 Authorization of Review Board to Review Plans**

The Review Board is hereby authorized to review and approve, approve with conditions, or disapprove Site Plans for land uses within the Town, as hereinafter designated and pursuant to and in accordance with the standards and procedures set forth in this local law.

## Article II - Applicability and Definitions

### 2.000 Exemptions

Agricultural operations as defined in this law are exempted except as specified in this section 2.010 (l) below.

### 2.010 Applicability of Review Requirements

The following new Land Use Activities, and modifications of existing Land Use Activities as listed in this section, shall require Site Plan review and approval before being undertaken and before a building permit or certificate of occupancy can be issued:

- a. Commercial uses having Gross Floor Area of 10,000 square feet or more and/or Site Disturbances greater than one acre.
- b. Commercial uses of any size having a Drive-Through Facility, excepting home occupations.
- c. Institutional uses, including schools, educational uses, churches, museums, and nursing homes, having Gross Floor Area of 10,000 square feet or more and/or Site Disturbances greater than one acre.
- d. Heavy Industrial Uses of any size, including temporary and permanent facilities.
- e. Light Industrial Uses having Gross Floor Area of 25,000 square feet or more and/or Site Disturbances greater than one acre.
- f. Multi-Family Residential uses as defined in Section 2.040 (cc) of this law.
- g. Staging, storage or parking areas for vehicles, equipment, or materials, whether temporary or permanent, that are established as the result of a Land Use Activity that falls within the jurisdiction of the Site Plan Review Law.
- h. Waste disposal and Waste storage, processing, or bulk transfer areas.
- i. Wind Energy Facilities greater than 80 feet in height.
- j. Mixed Uses of any size, involving a combination of two or more of the uses listed in this section on a single Site.
- k. Any Development activity involving the handling, storage, placement, or transfer of hazardous substances or Hazardous Materials.
- l. Concentrated Animal Feeding Operations (CAFOs), as such terms are used and defined in New York State Law, including in the Environmental Conservation Law and the Agriculture and Markets Law, and the regulations of the Department of Agriculture and Markets and Department of Environmental Conservation. In addition, CAFOs that are subject to the New York State Department of Environmental Conservation (DEC) CAFO General Permit shall: (i) submit copies of their Notice of Intent, Annual Nutrient Management Plan for large CAFOs or their Comprehensive Nutrient Management Plan Certificate for small and medium sized CAFOs (ii) submit copies of their permit application and permit to the Town Clerk's Office so that the permit information is available for inspection by the public; and (iii) provide any updates regarding changes in the DEC permit or permit status to the Town Clerk's Office.
- m. Any proposed Land Use Activities that negatively affect important Agricultural Resources as defined in § 2.040(d) of this Law.
- n. Any modification of any existing Site or facility on the above list for which no previous Site Plan review and approval had occurred.
- o. In any of the above use categories, any: (i) expansion of existing buildings or structures which involves an increase in the Gross Floor Area of an existing building or structure by more than 10 % in the aggregate since any previous Site Plan approval; (ii) expansion of outdoor inventories that includes new products or materials or that increase gross storage area volumes by more than 10% in the aggregate since any previous Site Plan approval; or (iii) any new outdoor Land Use Activity that was not previously subject to Site Plan review or that was not issued any Site Plan approval.

Any Person uncertain of the applicability of this local law to a given Land Use Activity may apply in writing to the Enforcement Officer, or other Person designated by the Town Board, for a written jurisdictional determination.

### **2.020 Effect on Existing Uses**

This law does not apply to uses and structures that are lawfully in existence as of the date this local law becomes effective, except for modifications of existing uses or structures as specified in § 2.010. Any use which would otherwise be subject to this law, which has been discontinued for a period of one (1) year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one (1) year from the effective date of this local law.

### **2.030 Authority and Relationship of This Law to Other Laws and Regulations**

This local law is enacted under the authority granted to the Town of Caroline in Town Law Section 274-a and Municipal Home Rule Law Sections 10(1)(ii)(a)(11) and (12); Section 10(1)(ii)(d)(3); and Section 22.

Further, this local law does not affect 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.

### **2.040 Definitions**

- a. Agricultural Data Statement - A statement identifying farm operations within an Agricultural District located within five hundred feet of the boundary of property upon which Development is proposed, as provided in Agriculture and Markets Law § 305-a.
- b. Agricultural District - An agricultural district established by Tompkins County under the provisions of Agricultural and Markets Law Article 25-AA.
- c. Agricultural Operation – Shall mean and include: (i) any land or structures, whether upon contiguous parcels or otherwise, used in relation to the raising, production, storage, distribution, delivery, or sale of agricultural products, such as crops (grains, seed, fruits, vegetables, nuts, sod, and similar agricultural goods), livestock, poultry and dairy goods, ornamental and greenhouse products, woodland products, bee keeping and apiary products, forest management products and activities, and timber harvesting operations, in each case also including the management, preservation, preparation, or processing of such agricultural goods predominantly on Site; (ii) practices that allow land used for agricultural activity to lie fallow for a period not exceeding five consecutive years; and (iii) agricultural activities as defined and construed pursuant to New York State Agriculture and Markets Law § 301.
- d. Agricultural Resources – Within Agricultural Districts, Agricultural Resources are the soil, water, air, plant communities, watersheds, human resources, natural and physical attributes, and man-made developments, which together comprise the resources for production by the agricultural community. For the purposes of this local law, land area and its attributes outside Agricultural Districts are not considered Agricultural Resources.

- e. All Weather Surface - Any roadway, driveway, alley or parking lot surface paved with crushed stone, asphalt, concrete, or other pervious or Impervious Surface material in a manner that will support the weight of anticipated vehicular traffic in all weather conditions and minimize the potential for ruts, potholes or pooling of water.
- f. Applicant - The Applicant is any Person applying for a building permit or Site Plan review, and such term also includes the developer of the Development and the Development Site.
- g. Clerk of the Review Board - The Caroline Town Clerk.
- h. Commercial Use - Any business use or activity providing consumer goods, services, or administrative functions, not including Light Industrial Uses or Heavy Industrial Uses as defined in this local law. Examples of commercial uses include, but are not necessarily limited to, retail stores, shopping centers, hotels and motels, restaurants, bars or taverns, professional and administrative offices, gasoline and other fuel filling or service stations, banks, supermarkets, and other similar uses.
- i. Critical Environmental Area (CEA) - As defined in State Environmental Quality Review Regulations § 617.14, and meaning: (i) any specific geographic area with identified or identifiable boundaries which possesses specific environmental characteristics as do or would warrant a CEA designation; and/or (ii) any such designated area recognized by the Town and/or NYSDEC.
- j. Design Guidelines – Design Guidelines are statements and questions created by resolution of the Town Board, guided by principles in the Town’s Comprehensive Plan, and must be addressed by the Review Board and a project applicant during the Site Plan Review process.
- k. Development - Any land use change, Land Use Activity, or project that requires a building permit or will result in changes to the physical condition, appearance, intensity of use and/or type of use of the Site.
- l. Drive-Through or Drive-In Facility - An establishment or facility that by design of physical facilities permits customers to receive a service or obtain a product (including food) while remaining in a motor vehicle on the premises.
- m. Dwelling Unit - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation as defined in the Building Code of New York State § 310.2.
- n. Enforcement Officer – The Town Code Enforcement Officer and/or such other Persons as designated as Enforcement Officers by resolution of the Town Board. The enforcement officer shall be responsible for the overall inspection of Site improvements and coordination with the Review Board and other officials and agencies, as appropriate.
- o. EIS – an Environmental Impact Statement prepared in accordance with SEQRA.
- p. Flood Damage Prevention Local Law – The Flood Damage Prevention Local Law of the year 2011, entitled “A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, § 2, and Environmental Conservation Law, Article 36.”

- q. Floodplain - Any land located within a Regulatory Floodway defined in the Flood Damage Prevention Local Law.
- r. Glare - Light emitting from a Luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases, with intensity great enough to cause momentary blindness.
- s. Gross Floor Area – The combined square footage of all human habitable or usable space within any whole or partial enclosure, with each level or floor contributing separately to the total, and each structure also contributing separately to the total (see examples).
- t. Hazardous Materials - Means (i) any material, including any substance, Waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed, and/or (ii) “Hazardous Materials” as defined under or in relation to any environmental law, rule, regulation or order, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 *et seq.* and 40 CFR §302.1 *et seq.*), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.* and 40 CFR § 116.1 *et seq.*), the Superfund Amendment and Reauthorization Act (“SARA”), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 *et seq.*), the New York State Environmental Conservation Law, the New York State Navigation Law, and those federal, state and local laws relating to lead based paint, hydrocarbons, asbestos, flammable materials, explosives, radioactive or nuclear substances, polychlorinated biphenyls, carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, and other pollutants or contaminants that could be a detriment or pose a danger to the environment or to the health or safety of any Person, each and all as now exist or as hereafter amended or re-codified, together with and including any other hazardous or toxic materials, Wastes and substances which are defined, determined or identified as such in any past, present or future federal, state or local laws, bylaws, rules, regulations, codes, orders, ordinances, or any judicial or administrative interpretation thereof.
- u. Hydric Soil - Soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part as defined in the Storm Water Management and Erosion and Sediment Control Local Law No. 2 of 2007.
- v. Impervious Surface - Any material or surface that substantially reduces or prevents the infiltration of water into the ground, including areas covered by buildings, conventionally surfaced roads and highways, driveways and parking lots, and sidewalks.
- w. Industrial Use, Light – Any non-retail Commercial Use or industrial operation that is not classified as a Heavy Industrial Use, generally including manufacturing or maintenance operations conducted wholly within one or more structures where: (i) any process is used to alter the nature, size, or shape of articles or raw materials, or where articles are assembled and such goods or services are consumed or used at another location; and (ii) the exterior appearance of the structures resemble office buildings; and (iii) the impacts of the use, such as noise, fumes, and vibrations, shall not exceed those typically associated with an office-type use; and (iv) the use is typically a non-significant polluting use, with no significant use of Hazardous Materials; and (v) such use has only light to moderate energy demands. By way of illustration, and not limitation, these may include indoor or outdoor warehousing and storage, smaller-

scaled printing, publishing and bookbinding operations, research and development facilities utilizing office spaces, indoor scientific laboratories, and small product assembly businesses.

- x. Industrial Use, Heavy – Any non-retail Commercial Use or industrial operations engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, and the blending of materials such as oils, resins, solvents, or liquors, where such uses have measurably greater impacts than Light Industrial Uses in terms of traffic, noise, fumes, odors, and vibrations and are more likely to involve large quantities of Waste materials or Hazardous Materials. Heavy Industrial Uses also include any activity and its related premises, property, facilities, or equipment involving extractive or solution mining operations, regardless of whether any New York State permit is required. In determining whether any proposed or existing use is a Heavy Industrial Use, the following guidelines shall apply and any such use that meets any three or more of the following criteria or thresholds may be presumed to be a Heavy Industrial Use: (i) such use has or is likely to have a significant negative or deleterious impact upon the environment; (ii) such use has or is likely to materially contribute to illnesses or mortality in the Town; (iii) such use involves the use, storage, or creation of Hazardous Materials or radioactive materials and poses a risk of harm due to the purposeful or inadvertent release, emission, or transmission of any such substance; (iv) such use involves any significant volume of detrimental or obnoxious noise, smoke, vibration, odor, traffic, dust, or other impacts, conditions, or characteristics that may or will constitute a public nuisance; (v) such use employs, directly or indirectly, 100 or more on-site workers; (vi) such use is located within facilities containing in excess of 200,000 square feet of Gross Floor Area or utilizes in excess of 10 acres of land; (vii) such use involves more than 10 vehicle trips per month by vehicles subject to special permitting due to their size, weight, or the size or nature of the load carried; (ix) such use would utilize, store, remove, deliver, or sequester more than 250,000 gallons of water from whatever source in a given year; (x) such use would require an internal or external 3 phase or greater power supply or station, the installation of high power or high tension power lines, or would use more than 250 kilowatts of power or electricity per day (or its equivalent in therms or other energy consumption equivalencies).
- y. Institutional Uses - A non-profit, religious, or public use, such as a church, library, public or private school, hospital, or government owned or operated building, structure or land used for public purpose. Other examples include but are not limited to day care centers, cemeteries, funeral homes, nursing homes, group homes, fire stations, community buildings, fraternal organizations, publicly owned recreation areas or any similar government or public use.
- z. Land Use Activity - Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure.
- aa. Luminaire - A complete or partial lighting system, including a lamp or lamps, diodes, LEDs, and similar light-emitting objects and assemblies, including any materials that are luminescent and emit light beyond the fixture or surface upon which they may be located or emplaced, and their attendant light fixture(s).
- bb. Mixed Use - a combination of two or more of the following uses on one Site: commercial, industrial, residential, agriculture, or any use listed in § 2.010 of this local law.
- cc. Multi-family Residential - A building or group of buildings on one lot containing 4 or more dwelling units. Also includes all types of congregate housing and boarding houses, whether or



not intended for medical or mental health purposes, substance abuse treatment, or other social welfare or public health reasons.

- dd. NYCRR – Means the official compilation of New York State regulations known as the New York Codes, Rules and Regulations
- ee. Performance Guaranty – Means a cash deposit, a letter of credit, a payment bond, a performance bond, or such other form of suretyship, promise, or security as the Town Board may approve in its reasonable discretion. The required amount of any Performance Guaranty shall be set by the Town Board. However, no payment or performance bond shall be accepted or acceptable where the party whose payment or performance is being bonded has indemnified the bond issuer, and all bond issuing agencies shall certify that the bonded or insured party has not agreed to any indemnification or defense of the issuer, and that the issuer has no obligation to obtain the consent of the bonded party before honoring, paying, or performing under such bond.
- ff. Person – Means any natural person, any corporation, limited liability company, trust, or other entity.
- gg. Review Board - The Board appointed by and under this local law to review Site Plans and Developments.
- hh. Residential - The use of land, buildings, and structures for housing of one or more Persons, including farm worker housing as defined and regulated by and under Department of Agriculture and Markets laws and regulations.
- ii. Site - Any tract, block, or parcel of land separated from other parcels or tracts by ownership or title, by description, by natural barriers or geologic or geographic features, or by metes and bounds.
- jj. Site Development - The maintenance or improvement of a Site in accordance with an approved Site Plan, including construction of buildings and structures, the rearrangement of the land surface, and the burying or construction of subsurface structures.
- kk. Site Disturbance - All activities, including clearing, grubbing, grading, excavation, stockpiling, importing or movement of fill, paving, installation of utilities, and construction of buildings or structures, that result in soil disturbance and/or removal of existing vegetation.
- ll. Site Plan - A “Site Plan” is a rendering or drawing of the proposed Development or use of one or more Sites showing the layout and design of all existing and proposed elements, including but not limited to topography, vegetation, drainage, Floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, above and below surface structures, signage, lighting, screening devices, and any other information required by this local law or the Review Board.
- mm. Sketch Plan - A statement and rough sketch showing the locations and dimensions of principal and accessory structures, All Weather Surface areas, active agricultural land and Agricultural Districts, existing and proposed vegetation (woodlands, existing fields, pastures, meadows, hedgerows, and tree lines), other planned features, surface water features including creeks, Wetlands, and ponds, historic sites, Steep Slopes, Critical Environmental Areas, and anticipated changes in the existing topography and natural features (See § 3.020 of this Law).

- nn. SEQRA - The State Environmental Quality Review Act constituting Environmental Conservation Law Article 8 and the implementing regulations found at 6 NYCRR Part 617.
- oo. Solar Photovoltaics (PV) - The structures and associated equipment that convert solar energy into usable mechanical or electrical energy, including photovoltaic panels, associated anchors and foundations, mounts, connected facilities such as generators, alternators, inverters and batteries, and other associated equipment.
- pp. SPDES - The State Pollutant Discharge Elimination System, administered generally under the Environmental Conservation Law and the Public Health Law.
- qq. Special Flood Hazard Area - Areas subject to inundation by a 100-year flood event as shown on the Flood Insurance Rate Maps for the Town of Caroline, prepared by the Federal Emergency Management Agency.
- rr. Steep Slopes - Any land or Site that exceeds a slope of 15%.
- ss. Streambank – The land adjacent to both sides of the streambed that defines the watercourse under bank full conditions.
- tt. Subdivision - The division of any lot, tract, or parcel of land into two or more parcels, lots, plots, tracts, or Sites, and including any other form of division of land, or the use thereof, for any purpose, including, but not limited to, leasing, condominiums, and lot leasing, whether for immediate or future use and regardless of whether new buildings or Development is planned or may occur.
- uu. Town - The Town of Caroline, Tompkins County, New York.
- vv. Town Board - The Town Board of the Town of Caroline.
- ww. Unique Natural Areas (UNAs) – Land designated by the Tompkins County Environmental Management Council as having outstanding environmental qualities that deserve special attention for preservation and protection.
- xx. Waste - Unwanted material that requires disposal, or such garbage, rubbish, and other materials regulated under the NYS Building Codes, including, but not limited to, the Existing Building Code and the Property Maintenance Code.
- yy. Wetland<sup>1</sup> - Any area, which meets one or more of the following criteria:  
i. Jurisdictional and Mapped Wetlands – Lands and waters that meet the definition provided in 24-0107.1 of the New York State Environmental Conservation Law, “Freshwater Wetlands Act.” The approximate boundaries of such lands and waters are as delineated upon or indicated by those Wetlands shown upon the official Wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, including those Wetlands as are delineated and awaiting placement upon such maps.

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<sup>1</sup> The U.S. Army Corps of Engineers is responsible for federal Wetland regulation. The New York State Department of Environmental Conservation is responsible for state Wetland regulation. The Town of Caroline and Tompkins County are responsible for “wetlands of local importance.” Developers are encouraged to contact these agencies concerning potential federal, state, or local regulation of Wetlands on their property.

ii. Other Lands That Are Deemed Wetlands After Delineation – All areas containing or supporting Hydric Soils and/or which are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and under normal conditions do support, a prevalence of hydrophytic vegetation as defined by the Federal Interagency Committee for Wetlands Delineation, 1989, in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, Washington, DC, and adopted by the US Army Corps of Engineers, US Environmental Protection Agency, and the US Fish and Wildlife Service, or as amended and updated. Hydric Soils referenced above shall include the soil types taken from the Tompkins County Soil Survey Series, 1965, or such revised, updated and adjusted soil surveys as may be completed.

- zz. Wetland Delineation - The process of determining Wetlands and their boundaries. The boundaries of a Wetland shall be determined by procedures outlined in US Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (Environmental Laboratory, 1987). Identification of the general location of Wetlands shall be aided by reference to: The Freshwater Wetlands Map by the New York State Department of Environmental Conservation, as amended and updated; the Soils Map of Tompkins County – Soil Survey Series 1965, as from time to time updated; and other maps such as the 1990 US Fish and Wildlife Service Map which assist in the location and delineation of Wetlands. Wetlands not depicted on any such maps are not thereby exempted from regulation under provisions of this law.
- aaa. Wind Energy Facilities - The structures and associated equipment that convert wind energy into usable mechanical or electrical energy, including towers, turbines, guy wires, associated anchors and foundations, mounts, connected facilities such as generators, alternators, inverters and batteries, and other associated equipment.

Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

## Article III - Review Criteria

### 3.010 Site Plan Considerations

The review criteria are intended to provide for orderly development within the Town and to provide for the development and coordination of adequate facilities for the housing, transportation, distribution, comfort, convenience, climate, safety, health and welfare of the Town and its residents, guests, and visitors. The Review Board's review of the Site Plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Location, arrangement, size, design and general Site compatibility of buildings, lighting and signs.
2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement with vehicular and non-vehicular traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian safety and convenience.
5. Adequacy of stormwater and drainage facilities.
6. Adequacy of water supply and sewage and Waste disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the Applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. Adequacy of fire lanes and other emergency zones.
9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
10. Overall impact on existing neighborhood form and function.
11. Site restoration for any Land Use Activities that are proposed to be temporary or short-term in duration.
12. Impacts on Agricultural Resources.
13. Impacts on energy use and GHG emissions associated with the siting, design, and operation of buildings and related Development activity.
14. Location, arrangement, size, design, and general Site and Site Development compatibility of renewable energy systems.
15. Any proposed Land Use Activity that impacts a Unique Natural Area.
16. Any proposed Land Use Activity that impacts a Critical Environmental Area.
17. Consistency of Land Use Activities with the Town's Comprehensive Plan.

### 3.020 Specific Standards and Considerations

The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

- a. Water Quality - The following standards are intended to ensure that the quality of water in the Town is not unreasonably adversely affected as a result of new Development. Water quality is also addressed in these regulations, in part, through sections dealing with erosion and sediment control and stormwater runoff.
  - I. All proposed Development shall comply with the Town of Caroline Local Law No. 2 of 2007- Stormwater Management and Erosion and Sediment Control, Tompkins County Sanitary Code, the New York State Environmental Conservation Law, the New York State

Public Health Law, and the regulations promulgated thereunder at 6 NYCRR and 10 NYCRR respectively, with regard to the design, construction and maintenance of sewerage systems. Plans shall be reviewed by the Tompkins County Department of Health. All Department of Health plan approvals are required prior to issuance of any permits.

- II. The potential impact on water quality of the proposed Land Use Activities shall be identified and mitigation measures proposed. Examples of Land Use Activities that may raise concerns are: large parking or loading areas without any method of containing oil and sediment deposited on All Weather Surfaces; storage of petroleum products, hazardous waste, or chemicals on the Site; and the use of fertilizers, pesticides, or other chemicals on large expanses of land or near wells, streams, or drainage ditches. To ensure the long-term water quality in the Town, appropriate management, response and maintenance plans shall be developed, including the construction and maintenance of permanent practices. The Town may require Performance Guaranties to ensure the proper construction, management, and monitoring of such permanent practices or other mitigation measures. Final Development approval shall be subject to the actual receipt of all required permits from local, state, and federal regulatory agencies, and the fulfillment and satisfactory completion of permit conditions or requirements. Where the subject permit may take a significant length of time to obtain, a conditional approval may be issued; however, the failure to actually later obtain such permit makes such conditional approval revocable and, once so revoked, the application process shall be deemed to have been concluded, all Development, Disturbances, and Site Development activities shall cease and the Applicant shall be required to re-apply for review should the Applicant desire that its proposed use or project be permitted within the Town.
- III. Wetlands are a natural filter for water, removing sediments and pollutants. Wetlands and potential Wetland areas within any Site shall be identified. Any proposed Disturbance of a Wetland, either during or after construction, shall be mitigated and any required permits obtained and provided to the Town.
- IV. The following construction methods are recommended to protect water quality:
  - i. Avoid construction on Hydric Soils, where possible and feasible.
  - ii. Avoid Impervious Surfaces in favor of pervious surfaces, where possible and feasible.
  - iii. Where appropriate, use bioengineering techniques rather than traditional construction methods to manage water on-site.
  - iv. Avoid crossing streams and ditches with roads and driveways where possible and feasible.
  - v. Establish buffers along streams and other watercourses where possible and feasible.
- b. Water Supply - The proposed Development shall have a supply of water adequate for the proposed uses without unreasonably adversely affecting the availability of groundwater for other properties. Groundwater is the principal source of drinking water in the Town of Caroline. In addition, groundwater often serves as the sole supply of water to surface water systems. The following standards are intended to ensure that the supply of water is adequate for the proposed Development and will not unreasonably interfere with existing users of the same supply of water, including groundwater and surface waters:
  - I. A source of water for the proposed Development shall be identified.
  - II. All proposed Development shall comply with the latest editions of Recommended Standards for Water Works, (Great Lakes Upper Mississippi River Board of State Public

Health and Environmental Managers) and Rural Water Supply, (New York State Department of Health).

- III. When the proposed source of water for the Development is groundwater, the Review Board may require the Applicant or developer to undertake well and pump tests to determine the adequacy of the supply of groundwater to serve the Development.
  - IV. When the proposed source of water for a Development is ground water , the Review Board may require the subdivider to undertake studies including a hydrogeologic study to determine the impact of the proposed withdrawal of ground water on surface water flows and on existing users of the same supply of water.
  - V. Wetlands are often a natural recharge area for groundwater resources. Wetlands within the area of the proposed Development shall be identified. Any proposed Disturbance of a Wetland, either during or after construction, shall be mitigated and any required permits obtained and provided to the Town.
  - VI. In determining the need for studies or additional information from the Applicant or developer, the Review Board shall be guided by the history, if any, of ground water supply problems at the Site and in the vicinity of the proposed Development and by any available groundwater or aquifer studies.
- c. Erosion and Sediment Control - The proposed Development shall not result in unreasonable soil erosion, either during construction or after the project is completed, and shall comply with Town of Caroline Local Law #2 of 2007, Stormwater Management and Erosion and Sediment Control.
  - d. Stormwater Runoff - The proposed Development shall not result in any increased stormwater runoff and shall comply with Town of Caroline Local Law # 2 of 2007, Stormwater Management and Erosion and Sediment Control.
  - e. Transportation - The Site Plan shall provide for diverse and safe pedestrian, bicycle, emergency service vehicles, and motorized traffic measures. The following standards are intended to ensure that the siting of proposed Developments and the associated transportation services for pedestrians, bicycles, emergency service vehicles, and motorized traffic are safe, efficient, and designed for proper future maintenance. In order to achieve these goals, the Review Board may require the developer to prepare and implement a transportation plan.
    - I. Any highways to be dedicated to the Town shall meet the Town Highway Specifications and the provisions of Local Law No. 2 of the year 1996 (local road classification) except where the provisions of such local law shall conflict with the provisions herein, in which case the provisions herein shall govern.
    - II. For road sections to be dedicated to the Town (whether by title in fee or by easement), highways and highway appurtenances (such as, but not limited to culverts) shall be constructed to serve the anticipated traffic and protect the roadway without requiring resurfacing or repair for a period of not less than twenty (20) years.
    - III. The highway system shall be designed with due regard to the need for:
      - i. Convenient traffic access and circulation,
      - ii. Traffic control and safety,
      - iii. Safe movement of emergency service vehicles on road system, and within driveways,
      - iv. Adequate sight distances at all intersections, and along and over all curves and hills, and
      - v. Stormwater management.

- IV. Highways shall be designed to promote a coordinated highway system. When a proposed Development adjoins undeveloped land, its streets shall be laid out so as to promote suitable future street connections with the adjoining land where appropriate.
  - V. In areas served by the local public transportation system, the Development shall be designed to provide for the efficient and safe operation of such services. The Review Board may require that local public transportation provider(s) have an opportunity to review and comment upon any Development and its related plans.
  - VI. Provide support for transportation choices such as bike racks and/or storage, dedicated car share parking spaces, a car or van pooling service, an electric vehicle (EV) charging station, or local public transportation provider handicap service.
- f. Public Services - All appropriate public service providers shall be provided information regarding the proposed Development. The Applicant shall provide a narrative describing how the following public service providers have been notified in writing of the proposed Development and shall provide to the Review Board copies of all written responses:
- I. Fire Protection and Emergency Medical Services - The appropriate fire department and emergency ambulance service provider should be provided plans.
  - II. Street Lighting - The lighting district commissioner, currently the Town Board, should be provided lighting plans.
  - III. School Services - Site Plan applications should be provided to the appropriate school district.
  - IV. Public Transportation - Public transportation providers shall be provided with the Development Plan.
- g. Utility Services - All appropriate utility service providers shall have an opportunity to review the proposed Development, shall provide a narrative describing how the following utility service providers have been notified in writing of the proposed Development, and shall provide to the Review Board copies of all written responses:
- I. Electricity - The appropriate utility company should be provided plans.
  - II. Gas - The appropriate utility company should be provided plans.
  - III. Telecommunications - The appropriate telephone, cable and internet or broadband provider company should be provided plans.
- Further, all Developments and Land Use Activity proposals shall take into account the potential future need and impact upon neighboring properties relative to future utility extensions, line and service capacities, and the size and location of any service easements or installations.
- h. Flood Hazard Prevention - The proposed Development shall not create new or increase existing flooding hazards in flood hazard zones. In order to prevent inundation by flood waters, when a Development is within or adjacent to a Special Flood Hazard Area, all Development (including filling, paving, and storage of equipment and materials) shall be in compliance with the Local Law No. 2 of 2007, Stormwater Management and Erosion and Sediment Control.
- i. Agriculture - The proposed Development shall minimize impacts on existing Agricultural Operations, Agricultural Districts, or Agricultural Resources, and the following matters shall be considered:
- I. When Land Use Activities subject to Site Plan review are located in or within 500 feet of an Agricultural District the Applicant or developer shall complete and submit an

Agricultural Data Statement and address the impact the Development will have upon agriculture and Agricultural Operations (such as light, sound, smell, dust, etc.), as well as the impacts Agricultural Operations may or will have on the proposed Development. Upon filing an application, the Applicant shall mail written notice to the owners of land identified in the Agricultural Data Statement and provide proof of mailing of the same to the Review Board. Such notice shall include a description of the Development and its location, and such notice may be sent in conjunction with any other notice(s) required by this local law. The cost of mailing said notice shall be borne by the Applicant or developer.

- II. When required by law, a Notice of Intent or other impact statement shall be delivered to NYSDAM in accord with the Agriculture and Markets Law.
- j. Air Quality - Development plans shall comply with air quality standards set forth by the NYS Department of Environmental Conservation and US Environmental Protection Agency thresholds for air emissions.
  - k. Sound -
    - I. Structures shall be located, constructed, and insulated to mitigate on-site noise from interfering with the use of adjacent properties.
    - II. Methods for blocking noise shall be used where appropriate and may include sound baffles, soundproofing, fencing, walls, and natural buffers, such as berms and landscape planting with deciduous and coniferous trees and large shrubs.
  - l. Lighting -
    - I. Exterior lighting shall enhance the building design and the adjoining landscape.
    - II. The number of Luminaires and the intensity of lighting shall be appropriate to illuminate the location for safety, without Glare to adjoining properties and streets. Luminaires shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. The light level at the lot line shall not exceed 0.2 footcandles, measured at ground level. Glare shall be controlled as follows:
      - i. Any Luminaire with a lamp or lamps rated at a total of more than 1,800 lumens, and all flood or spot Luminaires with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the Luminaire.
      - ii. The number of Luminaires and the intensity of lighting shall be appropriate to illuminate the location for safety, while minimizing Glare to adjoining properties and streets and minimizing Uplight. To achieve this goal, as much as practical the lighting should conform to the non-residential lighting requirements of the model lighting ordinance or standards of the International Dark-Sky Association (“IDA”), Tucson, Arizona.
      - iii. Wherever practical, Luminaires shall provide for Glare-free, downward directed, and shielded lighting as promotes the “dark-sky” standards of the IDA, including, for example, meeting the goals and standards expressed in the “Outdoor Lighting Ordinance and Community Standards” Information Sheet #172 and the IDA “Outdoor Lighting Code Handbook.”
    - III. Excessive lighting for promotional/visibility purposes shall be discouraged. The operation of searchlights for advertising purposes is prohibited.
    - IV. All lighting (except for security purposes) shall be turned off between 11:00 p.m. and 6:00 a.m. Exceptions will be granted on a case-by-case basis for those facilities



which are operating or have a demonstrated need of lighting during these hours.

- m. Energy Use and Greenhouse Gas (GHG) Emissions – In the interest of project design that reduces energy demand, maximizes the energy efficiency of new facilities, and encourages the adoption of renewable energy systems, site Plans for proposed Developments and Land Use Activity shall adhere to the SEQRA process, including a discussion of energy use and GHG emissions that encourages the utilization of on-site mitigation measures to reduce GHG emissions. All applications will be reviewed with respect to the goals of the Town’s Comprehensive Plan as well as County and State energy guidelines and plans. The Review Board, either as Lead Agency under SEQRA or in consultation with another body serving as Lead Agency will review all applications requiring a discussion of energy use and GHG emissions under SEQRA, in accordance with the methods and procedures in the NYS DEC *Guide for Assessing Energy Use and Greenhouse Gas Emissions in an Environmental Impact Statement*, as referenced in the DEC’s SEQR Handbook, 3<sup>rd</sup> Ed., 2010.

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## Article IV - Site Plan Review Process

### 4.010 General Procedures

Prior to undertaking any Development, Disturbance, Site Development, or Land Use Activity subject to this local law, a Site Plan approval by the Review Board is required. The Enforcement Officer will review all building permit applications to determine whether the proposed Development or activity falls under the purview of this law. If it is determined that it does, the Enforcement Officer will notify Applicant of the need to file a Site Plan review application and refer the Applicant to this local law. Applicants must comply with all procedures and requirements of this local law. The Site Plan review process is as follows:

1. Sketch Plan Conference (4.020);
2. Site Plan Application (4.030);
3. Submission of Permit Fee (4.031);
4. Preliminary Review of Site Plan Application (4.040);
5. Public Hearing on Preliminary Site Plan (4.044) – as appropriate;
6. Town Board Review (4.050);
7. Final Site Plan Application (4.060);
8. Public Hearing on Final Site Plan (4.062) – as appropriate;
9. Final Review Board Decision (4.070).

### 4.020 Sketch Plan

A Sketch Plan conference is required between the Review Board and the Applicant prior to the preparation and submission of a formal Site Plan. The intent of such a conference is to enable the Applicant to inform the Review Board about the proposed Development prior to the preparation of a detailed Site Plan, and for the Review Board to review the basic Site design concept, advise the Applicant as to potential problems and concerns, and to generally determine the information to be required on the Site Plan. In order to accomplish these objectives, the Applicant shall provide the following:

- a. A project narrative and draft plan showing the locations and dimensions of principal and accessory structures, All Weather Surface areas, active agricultural land and Agricultural Districts, existing and proposed vegetation (woodlands, existing fields, pastures, meadows, hedgerows, and tree lines), other planned features, surface water features including creeks, Wetlands, and ponds, historic sites, Steep Slopes, Critical Environmental Areas, Unique Natural Areas, anticipated changes in the existing topography and natural features, and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
- b. An area map showing the parcel under consideration for Site Plan review, its location within the Town, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features, including potential impacts related to lighting and sound, within 200 feet of the boundaries of the Site(s); and
- c. A topographic or contour map of adequate scale and detail to show Site topography and existing Site conditions, including those affecting drainage and Stormwater runoff.

Sketch Plan materials shall be submitted at least 15 days before the conference at which it is to be considered by the Review Board. The Applicant shall submit via email a package that includes the date, signature of the Applicant and/or representing party, and a cover page detailing the Sketch Plan Application contents, plus one hardcopy for each member of the Review Board (5 total), and one (1) hardcopy delivered to the Town Clerk.

#### **4.021 Waiver of Submission Requirements**

As part of a Sketch Plan submission, the Applicant may request that the Review Board waive the requirement for the submission of particular information as part of the Sketch Plan submission or the Site Plan application. The Review Board, in making the determination, shall consider:

1. Whether the information required by this law is unrelated to the findings it is required to make under the law, or
2. Whether the information required by this law is not relevant to the proposed Site Plan application.

The Applicant may submit a waiver to the Review Board outlining the request in writing, signed and dated, via hardcopy delivered to the Town Clerk or by email sent to the Town Clerk and copied to the Code Enforcement Officer.

#### **4.022 SEQRA Classification**

As part of the Sketch Plan review, the Review Board shall make a preliminary determination as to whether the proposed project is a Type I Action, a Type II Action, or an Unlisted Action under SEQRA, and whether any review under NEPA or a FONSI is required.

#### **4.030 Application Requirements**

A formal application for Site Plan approval shall be made in writing to the chairperson of the Review Board and shall be accompanied by information contained in the checklist in § 4.033. The information included in the application shall be drawn from the checklist in § 4.033 as determined necessary by the Review Board at the previously held Sketch Plan conference.

#### **4.031 Submit Permit Fee**

The Town Board shall by resolution periodically set a fee schedule for the review and processing of Site Plan applications and for the inspection of Development. This receipt must be filed with the application as evidence of payment. No application review will begin until the appropriate fee is filed with the Town Clerk.

#### **4.032 Review Board Use of Legal Counsel**

The Review Board shall seek legal counsel of the Town Attorney in the Site Plan Review process such as attendance at meetings with applicant and counsel regarding matters of meeting process and interpretation of these regulations.

#### **4.033 Retention of Expert Assistance and Reimbursement by Applicant**

1. At any point in the Site Plan Review process the Review Board may elect to retain private consultants or refer to the county or regional planning staffs for review, comment, and advice on any aspect of the evaluation and approval of the site plan process at the expense of the applicant.
2. An Applicant shall deposit with the Town funds sufficient to reimburse the Town for the reasonable anticipated costs of engineering, legal, and other consultant and expert evaluations and consultation reviews, as incurred by the Town or by the Review Board in connection with the review of any application. The Code Enforcement Officer or other such agent as the Town Board may designate shall calculate the fee for each application. The initial deposit shall be in an amount as reasonably assessed by the Town, set forth in a fee schedule, and adopted by Town Board resolution. These funds shall accompany the filing of an application and the Town will maintain a separate escrow account for all such funds. The Town may draw-down such account to reimburse for permissible, allowed costs of professional or consultant reviews and consultations, and if at any time during the review process the amount in the said escrow account drops below \$500.00, additional funds shall

be submitted to the Town in an amount to be reasonably determined by the Town before any further action or consideration will be permitted on the application. In the event that any funds remain after final approval of the project or the issuance of any Site Plan review determination, the balance of such funds shall be promptly refunded to the Applicant.

3. The fee schedule set forth in this Section may vary with the scope and complexity of the proposed project, the completeness of the application, and other information as may be needed by the Review Board or its consultant/expert to complete the necessary review and analysis.
4. The Review Board at the Sketch Plan meeting with the Applicant, and at any other time, shall have the authority to review any amounts determined as required deposits for any Applicant or application review process by the fee schedule and the Enforcement Officer. The Review Board may adjust or amend any amounts required downward at the request of the Applicant or whenever the Review Board deems the amount required unnecessary or excessive, but in no case may the Review Board increase any amount of deposit(s) so required by the fee schedule and the Enforcement Officer.

#### **4.034 Site Plan Checklist**

1. Title of drawing, including name and address of Applicant and Person responsible for preparation of such drawing;
2. North arrow, scale of not more than 100 feet to the inch and date;
3. Existing conditions, including:
  - a. Active agricultural land, Agricultural Districts;
  - b. Floodplains, Wetlands, Steep Slopes;
  - c. Woodlands, existing fields, pastures, meadows, hedgerows, and tree lines;
  - d. Surface waters, including creeks, streams, springs, lakes and ponds;
  - e. Existing wells, springs and sewage systems on the property or within 200 feet of any boundary;
  - f. Topography with contours of no more than two (2) foot intervals where any construction or Site Disturbance will occur, and, otherwise, no more than five (5) foot intervals; with such topographic or other map being required to denote and identify the location of rock outcrops, the depth to bedrock, the soil types and characteristics, and existing or proposed watercourses;
  - g. Historic, archeological, or cultural sites and resources;
  - h. Any feature mapped by DEC on the Environmental Resource Map;
  - i. Critical Environmental Areas;
  - j. Unique Natural Areas;
  - k. Streets and intersections, including name, location, width of right-of-way and pavement, centerline elevations at intersections and other critical points;
  - l. Rights-of-way and easements, including location, width, owner, and any use restrictions;
  - m. Drainage facilities, including ditches, ponds, and culverts, and, as appropriate, their location, invert elevations, sizes and gradients;
  - n. Utility systems, including water, sewage disposal, gas, electric, and, as appropriate, the size and owner of such systems;
  - o. Test hole data with date, location and a graphic representation of findings; and
  - p. Scenic views or vistas of community importance on or adjacent to the Site.
4. Proposed Development, including, as appropriate:

- a. Streets, including proposed new highways and any improvements to existing highways, right-of-way and pavement width, and preliminary horizontal alignment;
- b. Proposed All Weather Surface areas including parking and truck loading areas, showing access and egress;
- c. Proposed temporary access, parking, storage and staging areas or areas that may be disturbed during construction;
- d. Proposed future use of the land within the Development;
- e. Drainage facilities, including location of proposed drainage facilities or improvements, with pipe sizes, grades, and directions of flow;
- f. Location of utilities, including gas, electricity, telephone, cable, and street lights;
- g. Erosion control plans, including grading plans if existing elevations or contours are to be changed more than four feet;
- h. Proposed restrictions on the use of the land, including easements, rights-of-way, and covenants; and
- i. Proposed vegetative buffers and landscaping;
- j. Location and proposed development of all buffer areas, including existing vegetative cover;
- k. Location and design of outdoor lighting facilities;
- l. Location, size and design of any proposed signs;
- m. An estimated project construction schedule, including a phasing plan if the project is to be built in phases.
- n. Record of application for and status of all necessary permits from other governmental bodies;
- o. Identification of any permits from other governmental bodies required for the project's execution;
- p. Other elements integral to the proposed Development as may be considered necessary in the particular case by the Review Board.

#### **4.040 Preliminary Site Plan Application**

An application for preliminary Site Plan review shall be submitted at least forty-five (45) days before the meeting at which it is to be considered by the Review Board. The developer shall submit via email a package that includes the date, signature of the applicant and/or representing party, and a cover page detailing the Site Plan Application contents, plus one hardcopy for each member of the Review Board (5 total), and one (1) hardcopy delivered to the Town Clerk. The Review Board may, at its discretion, accept a preliminary Site Plan for review less than forty-five (45) days before it is to be reviewed but no less than 15 days prior to a meeting to allow for adequate review. A Site Plan application shall not be considered complete until the SEQRA review process has been concluded, and all timelines otherwise stated in this local law shall be deemed automatically extended as reasonably necessary to allow the SEQRA process to proceed and become completed, including, where elected or required, allowing sufficient time to conduct and conclude any public hearings and public comment periods.

#### **4.041 Preliminary Review of Site Plan Application**

The Chairperson of the Review Board will provide a preliminary review of the Site Plan application to ensure that it is complete and contains all information necessary for review by the Board. No review or other deadlines or timelines shall begin to run for the Town or the Review Board until the Chairperson has determined that a complete application has been submitted and the Review Board has concurred in such opinion.

#### **4.042 Review Board Review**

1. Review Criteria - The Review Board shall review the preliminary Site Plan application for the applicability of Review Criteria (Article III) of this local law.
2. Design Guidelines - The Review Board shall review the preliminary Site Plan application to determine whether the principles of the Design Guidelines related to this local law are substantially incorporated into the design of the proposed Development. With permission of the property owner which shall not be unreasonably withheld, the Review Board may make a site visit to the proposed Development, with notification made to the applicant. If the proposed Development has been reviewed under the Design Guidelines as part of a Sketch Plan review, the Review Board shall review the preliminary Site Plan application for its compliance with the results of that review.

#### **4.043 Referral to Other Agencies and Town Board**

- a. Coordinated Review - The Review Board may refer the Site Plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Dept. of Transportation, the State Dept. of Environmental Conservation, and the state or county Dept. of Health, whichever has jurisdiction.
- b. Required Referral - Prior to taking the final action of the Site Plan, and where applicable: (i) the Review Board shall refer the plan to the Tompkins County Planning Department for their review and approval pursuant to §§ 239-1, -m, and/or -n of the General Municipal Law; and (ii) the Review Board shall refer the matter to the Town Board, particularly where permanent infrastructure is proposed or proposed to be dedicated to the Town.

#### **4.044 Public Hearing (Preliminary Site Plan)**

The Review Board may conduct a public hearing on the preliminary Site Plan if considered desirable by a majority of its members. Such hearing shall be held within sixty-two (62) days of the receipt of application for preliminary Site Plan review and shall be noticed as required by Town Law § 274-a. Currently, such notice periods being at least ten (10) days notice to the Applicant and five (5) days notice to the public. However, if a SEQRA public hearing is elected or required, then at least 14 days notice is required (see also § 4.045(3)).

#### **4.045 Review Board As Lead Agency Under SEQRA**

- a. Public Hearing - The time within which the Review Board shall hold a public hearing on the preliminary Site Plan shall be coordinated with any hearings the Review Board shall schedule pursuant to SEQRA, as follows:
  1. If the Review Board determines that the preparation of an EIS on the preliminary Site Plan is not required, the public hearing on such plan shall be held within sixty-two (62) days after the receipt by the Clerk of the Review Board of a complete preliminary Site Plan application; or
  2. If the Review Board determines that an EIS is required, and a public hearing on the Draft EIS is held, the public hearing on the preliminary Site Plan and the Draft EIS shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such Draft EIS in accordance with the provisions of SEQRA. If no public hearing is held on the Draft

EIS, the public hearing on the preliminary Site Plan shall be held within sixty-two (62) days of filing the notice of completion.

3. The hearing on the preliminary Site Plan shall be advertised as required by law upon at least 14 days notice if a SEQRA public hearing is to be held, and the hearing on the preliminary Site Plan shall be closed upon motion of the Review Board within one hundred twenty (120) days after it has been opened.
- b. Decision - The Review Board, by resolution, shall approve, with or without modification, or disapprove such preliminary Site Plan as follows:
1. If the Review Board determines that the preparation of an EIS on the preliminary Site Plan is not required the Review Board shall make its decision within sixty-two (62) days after the close of the public hearing; or
  2. If the Review Board determines that an EIS is required, and a public hearing is held on the Draft EIS, the Final EIS shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the Draft EIS, the Final EIS shall be filed within forty-five (45) days following the close of the public hearing on the preliminary Site Plan. Within thirty (30) days of the filing of such Final EIS, the Review Board shall issue findings on the Final EIS and make its decision on the preliminary Site Plan application.
  3. Grounds for Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated on the record. When approving a preliminary Site Plan, the Review Board shall state in writing any modifications it deems necessary for submission of the plan in final form.

#### **4.046 Review Board Not As Lead Agency Under SEQRA**

- a. Public Hearing - The Review Board may, with the agreement of the lead agency, hold the public hearing on the preliminary Site Plan jointly with the lead agency's hearing on the Draft EIS. Failing such agreement, or if no public hearing is held on the Draft EIS, the Review Board shall hold the public hearing on the preliminary Site Plan within sixty-two (62) days after the receipt by the Clerk of the Review Board of a complete preliminary Site Plan application. The hearing on the preliminary Site Plan shall be advertised as required by law, and shall be closed upon motion of the Review Board within one hundred twenty (120) days after it has been opened.
- b. Decision - The Review Board shall by resolution approve, with or without modification or conditions, or disapprove the preliminary Site Plan as follows:
  1. If the preparation of an EIS on the preliminary Site Plan is not required and the SEQRA process has been concluded, the Review Board shall make its decision within sixty-two (62) days after the close of the public hearing on the preliminary Site Plan.
  2. If an EIS is required, the Review Board shall make its own SEQRA findings and submit the same to the Lead Agency in accordance with the requirements of SEQRA.
  3. If an EIS is required, no approval of the preliminary or final Site Plan shall be issued until the SEQRA process has been concluded in accord with SEQRA, generally, and 6 NYCRR 617.11(c), specifically. However, a public hearing, if required, shall be conducted within sixty-two (62) days after the close of the SEQRA process if no claims, extensions, or challenges to the SEQRA process or determination are then pending.

- c. Grounds for Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated on the record. When approving a preliminary Site Plan, the Review Board shall state in writing any modifications it deems necessary for submission of the Site Plan in final form.

#### **4.047 Review Board Action**

1. Certification and Filing of Preliminary Site Plan - Within five (5) business days of the adoption of the resolution granting approval to a preliminary Site Plan, such Site Plan shall be certified by the Clerk of the Review Board as having been granted preliminary approval and a copy of the Site Plan and resolution shall be filed in the Town Clerk's office. A copy of the resolution shall be mailed to the Applicant or developer.
2. Effect of Approval of Preliminary Site Plan - Approval of a preliminary Site Plan shall not constitute approval of the final Site Plan. The preliminary Site Plan shall be a guide to the preparation of the final Site Plan. The act, in itself, of the Review Board granting preliminary Site Plan approval shall not be interpreted to create a presumption, or in any way imply, that the Review Board will give final approval to the Development if all conditions contained in the preliminary approval have not been met to the satisfaction of the Review Board, or if the Review Board determines that the Applicant or developer has not met all other requirements of any applicable rule, regulation, code or law or any other requirements which the Review Board may reasonably impose before any final approval is given
3. Revocation of Approval - Within six months of the approval of the preliminary Site Plan, the Applicant or developer must submit the Site Plan in final form. If the final Site Plan is not submitted within six months, the Review Board may revoke approval of the preliminary Site Plan.

#### **4.050 Town Board Review**

The purpose of Town Board review is for the Town Board to have an opportunity to review proposed Development where the Town will be asked to accept any offer of dedication of public highways or other public facilities, or to accept financial guarantees for the completion of any required infrastructure in the Development. The Town Board review, when required, shall occur after the Review Board has approved a preliminary Site Plan, but before the filing of a final Site Plan application.

#### **4.051 Offers Of Dedication**

When any public highways or other facilities are proposed to be offered by the Applicant for dedication to the Town, the Town Board shall review the approved preliminary Site Plan of the Applicant or developer. The Town Board shall notify the Applicant and the Review Board in writing whether the proposed highways or other facilities are eligible for acceptance. A finding by the Town Board that the proposed highways or other facilities are eligible for acceptance shall not obligate the Town Board to accept such facilities after they are constructed and formally offered to the Town. No application for final Site Plan review shall be considered complete until such review by the Town Board has been completed.

#### **4.052 Performance Guaranties**

When an Applicant wishes to file or record the final Site Plan prior to completion of the proposed improvements, the Town Board may accept a Performance Guaranty for the completion of said work. In such cases, the Performance Guaranty shall be furnished by the Applicant for all required public improvements and utilities, and for all earthwork, landscaping, and Site restoration which are integral parts of the final Site Plan. No building permit shall be issued for a structure with an approved final Site Plan until the Applicant has furnished a Performance Guaranty. No final certificate of occupancy or



certificate of compliance shall be issued until all improvements included in the Site Plan are completed, or until a sufficient Performance Guaranty has been approved by the Town Board for improvements not completed. The Town Board may waive the requirements of this Section or may accept other evidence or promises of completion for required improvements if, in its discretion, it determines that there is no need for a Performance Guaranty. No application for final Site Plan review shall be considered complete until the Town Board has accepted, as to form and amount, a Performance Guaranty, or waived such requirement with or without conditions.

#### **4.060 Final Site Plan Application**

An application for final Site Plan review shall be submitted at least 45 days before the meeting at which it is to be considered by the Review Board. The Applicant shall submit via email a package that includes the date, signature of the applicant and/or representing party, and a cover page detailing the Site Plan Application contents, plus one hardcopy for each member of the Review Board (5 total), and one (1) hardcopy delivered to the Town Clerk. The Review Board may, at its discretion, accept a final plan for review less than 45 days before it is to be reviewed but no less than 15 days prior to a meeting to allow for adequate review.

#### **4.061 Final Application in Substantial Agreement**

When a final Site Plan application is submitted which the Review Board deems to be in substantial agreement with a preliminary Site Plan approved pursuant to Article 4 of this local law, the Review Board shall by resolution conditionally approve with or without modification or conditions, disapprove, or grant final approval and authorize the signing of such plan, within sixty-two (62) days of its receipt by the Clerk of the Review Board. In the case of a conditionally approved final plan, the Review Board's resolution shall include a statement of the requirements which, when completed, will authorize the signing of the plan, and all conditions of approval and other conditions that affect permitted land uses or that otherwise run with the land shall be stated upon such Site Plan map, and the Applicant shall be required to file such map at the Tompkins County Clerk's Office and index the same to the underlying deed(s) showing title to the affected land(s).

#### **4.062 Public Hearing (Final Site Plan)**

The Review Board may conduct a public hearing on the final Site Plan if considered desirable by a majority of its members. Such hearing shall be held within sixty-two (62) days of the receipt of application and noticed in accord with law.

#### **4.070 Review Board Decision**

Within sixty-two (62) days of receipt of the application for Site Plan approval or if a public hearing is held, within sixty-two (62) days of the public hearing, the Review Board shall render a decision on the Site Plan. In its decision the Review Board may approve, approve with modifications or conditions, or disapprove the Site Plan. The time period in which the Review Board must render its decision can be extended by mutual consent of the Applicant and the Review Board or where required by law, such as due to a SEQRA review.

1. Approval - Upon approval of the Site Plan, and payment by the Applicant of all fees and reimbursable costs due the Town, the Review Board shall endorse its approval on a copy of the Site Plan and shall immediately file it 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, return receipt requested.
2. Approval with modifications - The Review Board may conditionally approve the final Site Plan. A copy of written statement containing the modifications required by the conditional approval

will be mailed to the Applicant by certified mail, return receipt requested. After adequate demonstration to the Review Board that all conditions have been met, and payment by the Applicant of all fees and reimbursable costs due the Town, the Review Board shall endorse its approval on a copy of the Site Plan and shall immediately file it 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, return receipt requested. The grounds for a modification, if any, shall be stated upon the record.

3. Disapproval - Upon disapproval of the Site Plan the decision of the Review Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the Applicant by certified mail, return receipt requested, along with the Review Board's reasons for disapproval. The grounds for disapproval shall be stated upon the record.

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## **Article V - Waivers and Appeal of Review Board Decision**

### **5.010 Waivers and Special Circumstances**

The purpose of this Section is to set forth those conditions and circumstances under which the requirements of this Local Law may be modified or waived by the Review Board. Where the Review Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements or procedures is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Review Board finds and records in its minutes that: *i*) granting the waiver would be keeping with the intent and spirit of this Local Law and is in the best interests of the community; *ii*) there is no known, potential, or anticipated material adverse effect upon the character, appearance, or welfare of any adjacent neighborhood or the environment; *iii*) there are special circumstances involved in the particular case; *iv*) denying the waiver would result in undue hardship, provided that such hardship has not been self-imposed; and *v*) the waiver, if granted, would be the minimum necessary degree of variation from the requirements of this Local Law.

### **5.020 Appeals from Administrative Decisions of the Enforcement Officer**

Any Applicant for Site Plan approval or other Person who is aggrieved by a requirement or determination of the Enforcement Officer effecting the interpretation, applicability, compliance with or enforcement of any term or requirement of this local law, may appeal to the Review Board for a review of such requirement or determination. The appeal by any aggrieved Person shall be made in writing, shall set forth in a reasonably concise manner the determination or matter from which an appeal is made, and a full statement of the particulars and reasons why the Person believes the requirement or determination should be reviewed. Such appeal must be filed with the Chair of the Review Board at least twenty (20) days prior to the next meeting of the Review Board at which the appeal shall be heard. The Review Board, at its sole discretion, may waive the aforesaid requirement and permit an appeal to be reviewed in a shorter period of time. The Review Board shall render its decision in writing within forty-five (45) days of the meeting at which the appeal is reviewed.

### **5.030 Appeals from Review Board Determinations**

An appeal from any determination of the Review Board shall be made in accordance with the requirements of Civil Practice Law and Rules Article 78, but any such claim must be filed within thirty (30) days of the filing of any decision of the Review Board with the Clerk of the Town Board or from the date the claim accrues, whichever first occurs.

## **Article VI - Administration**

### **6.010 Responsibility for Administration**

These regulations shall be administered by the Review Board in cooperation with the Town Board and other agencies, and shall be enforced by the Enforcement Officer or by any other Person that the Town Board may designate.

### **6.020 Fees**

The Town Board shall by resolution from time to time set a fee schedule for the review and processing of Site Plan applications and for the inspection of Developments. The Enforcement Officer or other such agent as the Town Board may designate shall calculate the fee for each application. Each fee shall be paid to the Town Clerk, who shall issue a receipt stating the purpose of the payment. This receipt must be filed with the application as evidence of payment.

### **6.030 Public Hearings**

Unless a different time is otherwise provided herein, a notice of public hearing shall comply with the requirements of law, including Town Law § 274-a, and a minimum of 10-days notice shall be provided to Applicants and 5-days to the public generally. Compliance with the requirements of notice as set forth in the Town Law or under SEQRA laws and regulations shall be for all purposes proper notice. However, where circumstances suggest, in the sole discretion of the Review Board without recourse, that the provision of notice to additional Persons would be beneficial to the Review Board, the Review Board may direct the provision of written mailed notices to all property owners owning land within 500' of the boundaries of parcel proposed to be developed. The Review Board shall specify the number of days notice so required, but in no event shall less than 5-days notice be directed. In all cases, notice shall be deemed to have been received 5 days after depositing such notice, properly addressed and with proper postage affixed, in the exclusive care and custody of the United States Post Office. The Applicant shall file proof of such mailing or delivery with the Town no later than the date of the hearing. The Applicant shall pay all expenses of such mailings. Failure to notify property owners near a proposed Development of a public hearing shall not be a jurisdictional defect and shall not affect any action taken by any board, employee, or agent of the Town in connection with such public hearing. However, the failure to provide such notification may be grounds, should the Review Board in its discretion so determine, to decline to conduct a scheduled public hearing.

### **6.040 Building Permit Issuance**

The Code Enforcement Officer shall not issue a building permit or Certificates of Occupancy or Compliance for any structure(s) requiring a permit, such Certificates, or any approval hereunder, unless the approved final Site Plan is filed or recorded in the office of the Town Clerk, and until any other applicable requirements have been met.

### **6.050 Effect of Failure to Receive Approvals**

Until the Review Board has given final approval to a Site Plan and the final Site Plan has been filed or recorded in the offices of the Town Clerk, no building permit for construction shall be issued and no other work on the property shall be permitted, including any Site Development or Disturbances. Any permit or approval improperly or erroneously issued may be revoked by the Enforcement Officer. Any action taken or work performed upon or with respect to the lands within the Site Plan area, and any expenses incurred prior to final approval of the Site Plan, shall be assumed and undertaken solely at the risk of the owner of the land or the Applicant, and such expenditures, claims, or losses shall not give rise to any claim for damages against the Town or the Review Board by the landowner, Applicant, or developer.

## **Article VII - Review Board**

### **7.010 Establishment**

The Review Board created under the Town of Caroline's Subdivision Local Law of 2000 to administer Subdivision Review is hereby imbued with all requisite authority to also administer Site Plan Review. The Review Board shall consist of five members, each of whom shall be appointed by the Town Board. No Person who is a member of the Town Board shall be eligible for membership on the Review Board, and no public officer or employees of the Town, or of any other governmental agency, who are ineligible for appointment due to conflicts of interest or compatibility of offices rules may be so appointed or remain upon such Review Board. Review Board members shall be residents of the Town of Caroline.

### **7.020 Appointment of Members; Chairperson**

The Town Board shall appoint members of the Review Board to staggered full five-year terms. The Town Board shall, by resolution, annually, designate the chairperson thereof.

### **7.030 Powers and Duties**

The Review Board shall have the following powers and duties:

- a. Administering the Site Plan review regulations of the Town as provided herein.
- b. Recommending to the Town Board amendments to this local law.

### **7.040 Responsibilities of Review Board Members**

- a. Review Board members shall, per each year of service on the Review Board, participate in four (4) hours of training or continuing education courses related to their duties as required by law. The Town Board shall grant prior authorization for such training. Failure to attend and complete any required training or continuing education courses shall be grounds for removal from the Review Board. Tracking member(s) completion of training requirements shall be done by the Town Clerk, and a report shall be presented to the Town Board in November of each year.
- b. Review Board members are expected to attend all meetings. Failure to attend any three regularly scheduled meetings of the Review Board within any twelve-month period shall be grounds for removal from the Review Board.

### **7.050 Vacancy in Office**

If a vacancy shall occur other than by expiration of a term, the Town Board shall appoint any member for the unexpired portion of the term.

### **7.060 Removal of Members**

The Town Board shall have the power to remove, after public hearing, any member of the Review Board for cause, including failure to comply with the minimum requirements relating to meeting attendance and training.

### **7.070 Chairperson Duties**

All meetings of the Review Board shall be held at the call of the Chairperson and at such other times as the Review Board may determine. The Chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

**7.080 Alternate Members**

The Town Board may appoint an alternate member to the Review Board for such term as designated by the Town Board for the purpose of substituting for a Review Board member when, in the reasonable determination of the Chairperson, the regular member is unable to act, is not present, is recused, or is deemed to have a conflict of interest. When so designated, the alternate member shall possess all the powers and responsibilities of a Review Board Member. Such designation shall be entered into the minutes of the Review Board meeting at which the substitution is made. All provisions of this local law applying to Review Board members shall also apply to alternate members.

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## **Article VIII - Legal Provisions**

### **8.010 Separability**

If any word, phrase, part, section, subsection, or other portion of this local law, or the application thereof to any Person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this local law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this local law or the application hereof to any other Persons or circumstances. If necessary as to such Person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board hereby declares that it would have enacted this local law, or the remainder hereof, even if, as to such particular provisions and Persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

### **8.020 Effective Date**

This local law shall become effective immediately.

### **8.030 Integration of Procedures**

Whenever the circumstances of proposed Development require compliance with this local law and with any other local law, ordinance or requirement, the Review Board shall attempt to integrate, as appropriate, Site Plan review with the procedural and substantive provisions of such other law, ordinance, or requirements.

### **8.040 Performance Guaranties**

If the Review Board determines it is necessary to ensure that all items on the Site Plan providing for adequate traffic flow, utilities, stormwater management, and other similar infrastructure items, are constructed in accordance with the approved final Site Plan and any other pertinent specifications and requirements, or that a Performance Guaranty is needed to endure adequate Site restoration, the Review Board shall make a written recommendation to the Town Board concerning the same and the Town Board shall determine whether any Performance Guaranty is required, and if so the type, sufficiency, and amount of the same. Until the required Performance Guaranty is provided to the Town, the Review Board shall not issue any approvals and the Enforcement Officer shall not issue building permits or certificates of completion, occupancy, or compliance, and all timelines for the same shall be extended until 10 days after a proper Performance Guaranty is so delivered and reviewed and accepted by the Town Board.

### **8.050 Completion of Improvements**

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 Review Board, reasonably necessary to the proper and safe operation and occupancy of any completed facilities, are installed or until a sufficient Performance Guaranty has been provided to the Town for improvements not yet completed.

### **8.060 Stop Work Orders**

The Code Enforcement Officer may issue stop work orders for: (i) the construction or development of any infrastructure that is inconsistent with the approved Site Plan; (ii) any conditions stated in or upon such Site Plan that are not being complied with; (iii) the violation or breach of any agreements related to such Site Plan; (iv) the failure, withdrawal, loss, revocation, or expiration of any Performance Guaranty; (v) any uniform code violation; (vi) any violation of any SEQRA condition or requirement; (vii) any failure to comply with the terms and conditions of any SPDES general or special permits; (viii) any failure to comply

with the orders of a Code Enforcement Officer (including per Executive Law § 382); or (vii) for any other just and legal cause.

### **8.070 Enforcement and Penalties**

- a. A violation of this local law is hereby declared to be an criminal offense, prosecutable as a violation, and punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed five (5) days, or both, for conviction of a first offense;
- b. A conviction of a second offense (also a violation), where both of such violations were committed within a period of five (5) years, is punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period of not to exceed ten (10) days, or both; and
- c. A conviction for a third or subsequent offense (also a violation), where all of such violations were committed within a period of five (5) years, is punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed fifteen (15) days, or both.
- d. Each week's continued violation shall constitute a separate additional violation.
- e. For purposes of conferring jurisdiction, such violations shall be deemed unclassified misdemeanors, but for purposes of hearing, conviction, fine, and penalties, such offenses shall be deemed violations.
- f. In addition to the penalties provided by statute, and in accord with Town Law §§ 65(1) and 135, the Town Board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of buildings, structures, or land or to prevent any illegal act, conduct, business, or use.
- g. Nothing herein precludes the Town from pursuing any other right or remedy it has, or may in the future have, in respect of the enforcement of this local law, or to prohibit the violation hereof, whether in law or equity, and the remedies herein stated are cumulative and in addition to any such rights or remedies. The election by the Town of any one option or remedy shall not constitute an election of remedies or a waiver of any other rights or privileges, and the Town is free to pursue multiple simultaneous or sequential remedies, claims, procedures, proceedings, and the like, in its own and sole discretion.

### **8.080 General Construction**

Whenever any federal, state, or local law, ordinance, regulation, or similar rule (collectively for purposes of this paragraph, a "Law") is referenced herein, such reference shall include all references to such Law and its substantive and procedural rules and requirements as now promulgated and as hereafter amended, codified, or re-stated. All terms herein used in the singular or the plural sense shall be construed or applied as the context thereof admits or requires. All terms stated in any gender tense shall be construed in the masculine, feminine, or neuter tense as the context thereof admits or requires. Subject headings herein are for convenience only and shall not be used to limit or define the phrases occurring thereunder. In the event of any alleged or apparent conflict between this local law and any other Law, the terms hereof shall be read and construed as harmoniously as possible with such other Law, and if such harmony of construction is not possible then the terms of this Law shall be read as controlling.