

Local Law Filing

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County
City of **Wayland**
Town
Village

Local Law No. **3** **of the year 1997**

A local law **TOWN OF WAYLAND PROTECTION,**
..... **CONSERVATION, AND DEVELOPMENT LAW**
(Insert Title)

Be it enacted by the **TOWN BOARD** of the
(Name of Legislative Body)

County
City
Town of **Wayland** **as follows:**
Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

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LOCAL LAW NO. 3 OF 1997

**TOWN OF WAYLAND PROTECTION,
CONSERVATION AND DEVELOPMENT LAW**

A Local Law protecting each individual citizen while promoting health, safety, and general welfare of the Town of Wayland by limiting and restricting specified areas, and enacting regulations in those areas as to land use, buildings construction, other structures, and providing penalties for the violation of such law; replacing and repealing Local Law No. 1 of 1996 (pertaining to the Planning Board); repealing Local Law No. 2 of 1997 (imposing a moratorium); and amending the procedure for variances under Local Law No. 4 of 1995 and Local Law No. 1 of 1991, and permits under Local Law No. 2 of 1995.

Be it enacted by the Town Board of the Town of Wayland as follows.

**SECTION 1
GENERAL PROVISIONS**

1.1 AUTHORITY, ENACTMENT, EFFECTIVE DATE, REPEALER, AND SHORT TITLE

Pursuant to provisions of Article 16 of the Town Law, Section 136 of the General Municipal Law, and Article 2, Section 10 of the Municipal Home Rule Law, of the State of New York:

- (1) Local Law No. 1 of the Year 1996 of the Town of Wayland is hereby repealed in its entirety, and replaced by the Regulations set forth in this Law. Local Law No. 2 of 1997, imposing a moratorium, is repealed.
- (2) Except as set forth in paragraph (3) below, the following Local Laws of the Town of Wayland are not repealed, but rather are ratified and remain in full force and effect:

Year	Local Law No.	Subject
1975	1	Prior Written Notice of Defects and/or Accumulation of Snow and Ice; Prior Written Notice of Defects
1977	1	Short Publication of Ordinances
1980	1	Dog Control

1981	1	Sole Assessor
1984	1	Accepting the Right and Responsibility for Enforcement of New York State Uniform Fire Prevention and Building Code by the Town of Wayland
1985	1	Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code
1985	2	Prohibiting Human Burials in Other than Authorized Cemeteries
1985	3	Providing for the Defense of Town Officers and Employees
1986	1	Permitting Real Property Tax Bill Enclosures
1991	1	Flood Damage Prevention
1991	2	Games of Chance
1993	1	Reimbursement to the Town for Rabies Related Medical Expenses
1993	2	Allow Non-Resident to Serve as Town Constables
1993	3	Increase the Annual Dog License Fee
1995	1	Veterans Exemption in Direct Proportion to Full Value Reassessment
1995	2	Junk Yards and the Storage of Junk and Junk Cars
1995	3	Repair or Removal of Unsafe Buildings and Collapsed Structures
1995	4	Permits for Building and Construction Activity for Placement of Manufactured Homes, For Regulation of Mobile Home Parks and for Land Area Requirements
1995	5	Veterans Exemption as Maximum Allowable
1996	3	Water Conservation and Permitting Program
1997	1	Change of Date for Assessment Review

- (3) The procedure for variances provided for under Section 7 of the Building and Mobile Home Permit Law, Local Law No. 4 of 1995, is repealed and replaced by the procedure for variances set forth in this Law, including Sections 4.5, 5.6 and 6.5, in order to transfer from the Town Board to the Board of Appeals the power to grant variances under such law. Section 6.1 of the Flood Damage Prevention Law, Local Law No. 1 of 1991, is amended by replacing Planning Board with Board of Appeals, in order to transfer to the Board of Appeals the power to hear and decide appeals and requests for variances under such law. The Junk Law, Local Law No. 2 of 1995, is

amended by replacing Town Board with Planning Board in Articles D, F, G, and H of such law, in order to transfer to the Planning Board the power to grant and revoke permits under such law.

- (4) There is hereby established, in accordance with the Comprehensive Plan adopted June 24, 1996, a Protection, Conservation and Development Law for the Town of Wayland, Steuben County, New York, regulating and restricting the location, construction and use of structures, and the use of land, and for such purposes dividing the Town into districts, which Regulations are expressed in the text, maps and schedules that are enacted by this Law.
- (5) This Local Law shall be known and may be cited, as the Town of Wayland Protection, Conservation and Development Law.

1.2 INTERPRETATION

1.2.1 Purpose

The purpose of this Local Law is to protect the rights of each individual citizen to the greatest extent possible while promoting the public health, safety, and general welfare of the Town as a whole, and provide a framework for the future commercial, industrial and residential growth. It is also the purpose of this Law to protect existing property uses while retaining property values, and maintaining the rural character and desirability of each property by encouraging the most appropriate use of the land. It is the further purpose of this Law to preserve and enhance the environment and natural resources, including the natural beauty of the land, the rural character of the Town, and to maintain the integrity of its sources of water including the aquifer, streams, lakes, wetlands, reservoirs, ponds, forests, hills and soils, so that all may be enjoyed to the fullest by present and future residents.

1.2.2 Minimum Requirements Declared

- (1) In their interpretation and application, the provisions of these Regulations are hereby declared to be the minimum requirements necessary and appropriate for the purpose of this Law, and are adopted in order to protect the public health, safety, and general welfare.
- (2) Except as specifically provided in this Law, whenever the requirements of these Regulations are at variance with the requirements of any other lawfully adopted rule, regulation, or standard, the more restrictive or that imposing the higher standard shall govern.

1.2.3 Application of Regulations

- (1) The Regulations established by this Law for each area shall apply uniformly to each class or kind of use or structure or land, except as otherwise provided in this Law, or under state law.
- (2) After the date of original enactment of this Law, no structure shall be erected, and no existing structure shall be moved, structurally altered, rebuilt, added to or enlarged, or used, nor shall land be used, except in conformity with the requirements in this Law for the district in which it is located.
- (3) No part of a yard or off-road parking or loading space required in this Law for any premises shall be included as part of such a yard or space similarly required for any other premises.
- (4) No yard or lot existing on the effective date of these Regulations shall be reduced in dimension or area below the minimum requirements set forth in this Law. Lots and yards created after the effective date of these Regulations shall meet at least the minimum requirements established in this Law.
- (5) A building or other structure, or use of a building, other structure, or land, or characteristic of use, lawfully existing on the effective date of these Regulations (or any applicable amendment), but not in accordance with the requirements for the district in which it is situated, is hereby declared to be nonconforming, and may continue as provided in this Law.

1.2.4 Owner to be Accountable

To duly file an application in accordance with these Regulations is hereby declared to be the duty equally a property owner, developer, and contractor; and by agreement, one may act for all. Nevertheless, when the Plan Administrator or Code Enforcement Officer finds a violation of these Regulations, the owner of record of the premises (as well as any other violator) shall be considered to be accountable for such violation, and may be subject to appropriate enforcement action or proceedings.

1.2.5 Compliance is Strictly Limited

Any Permit or Certificate duly issued pursuant to these Regulations shall be evidence of compliance with the requirements of this Law, but shall not imply or be deemed evidence of compliance with any other regulation, standard, or rule of the Town of Wayland, Steuben County, New York State, the United States, or any agency of those governments, that may be applicable to the premises. The latter shall include the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the Junk Law. Compliance

with any such other regulation, standard, or rule applicable to a development, shall be a separate duty of the owner of the premises affected, and any other person responsible for the development.

1.3 ENFORCEMENT

1.3.1 Policy

It is hereby declared to be in the interest of the public health, safety, and general welfare, that all reasonable efforts shall be made to prevent or to correct as promptly as possible a condition that violates these Regulations, in preference over action by the Town to seek punishment of the person responsible for such violation.

1.3.2 Administrative Procedures

- (1) **Complaint.** A resident of the Town who perceives a violation of these Regulations may file a written complaint describing the alleged violation. Such complaint shall be filed with the Plan Administrator, who shall record such complaints, immediately investigate, and take action thereon as provided in this Law.
- (2) **Notice of Violation.** When the Plan Administrator or Code Enforcement Officer finds a violation of this Law, he shall promptly send a written Notice to the person responsible, and post the Notice on the property, stating the nature of the violation and appropriate corrective steps. The Notice shall advise that each week the violation continues shall constitute a separate additional violation of these Regulations, and may be punishable accordingly.
- (3) **Permit Violation.** When the Plan Administrator or Code Enforcement Officer finds a violation of a duly issued Building Permit or Special Permit, before a Certificate of Compliance has been issued, his Notice shall advise that such Certificate shall not be issued until the violation has been corrected; and, that to begin use of the premises without a Certificate of Compliance is a violation of these Regulations.
- (4) **Stop Order.** When a violation is maintained, after due notice, the Plan Administrator or Code Enforcement Officer shall transmit a Cease and Desist Order by certified mail to the owner of record of the premises. Such Order shall direct the immediate discontinuance of all construction, occupancy, or use of buildings, other structures, and land in violation of these Regulations, and if appropriate the removal of an illegal building or other structure, illegal addition, or illegal alteration. Such Order shall advise that failure to comply may result in the Town bringing civil and/or criminal action or proceedings. Copies of such Order shall be filed with the Town Clerk and Attorney for the Town.

- (5) **Correction.** When the Plan Administrator or Code Enforcement Officer finds that a cited violation has been duly corrected, he shall enter a statement to that effect in his record of the matter, with a copy to the owner of the premises and if appropriate also to the Town Clerk and Attorney for the Town.
- (6) **Appeal.** A person aggrieved by such a Notice or Order of the Plan Administrator, or the Code Enforcement Officer (to the extent it relates to matters arising under this Law), may appeal for Administrative Review of the matter, as provided by Section 4.4, which shall take preference over any other matter before the Board of Appeals. Until the Board of Appeals issues its decision, the passage of each week shall not be deemed to mark a separate violation of these Regulations.

1.3.3 Civil or Remedial Action

- (1) **Action by Town.** When a building or other structure is erected, constructed, reconstructed, altered, converted or maintained, or a building or other structure or land is used or occupied, in violation of these Regulations, the proper authorities of the Town, in addition to other remedies, shall institute appropriate action or proceedings to prevent, restrain, correct or abate such violation. Such action shall be taken promptly whenever the Town Board finds that continued violation is likely to place in imminent peril the public health, safety, or general welfare. The Town Board, by resolution, may authorize the Plan Administrator to institute such action or proceedings.
- (2) **Action by Taxpayers.** Such action or proceedings, if not initiated by the proper Town authorities within ten (10) days after written request by a resident taxpayer to so proceed, may be initiated by any three taxpayers of the Town, resident in or near the district where such violation exists, and severally or jointly aggrieved by such violation, in the same manner as such Town authorities are authorized to do.
- (3) **Monetary Penalty.** The Town or complainants may seek monetary penalties, not to exceed the fines provided for in Subsection 1.3.4(4), and, upon prevailing, shall be entitled to recover reasonable attorney's fees and other expenses of the action.

1.3.4 Criminal Proceedings

- (1) **Procedure.** When a violation of these Regulations is continued in a willful manner following service of an Order to cease, the Plan Administrator shall serve an appearance ticket on the responsible party, file the Information with the Town Justice, and notify the Town Supervisor of such enforcement action.
- (2) **Jurisdiction.** A violation of these Regulations is hereby declared to be an offense, triable in Town Justice Court.

- (3) **Separate Offenses.** Each week's continued violation, prior to the Plan Administrator's filing of the Information with the Town Justice and following the notice of violation, shall constitute a separate additional offense, except as otherwise provided in Subsection 1.3.2(6).
- (4) **Penalty.**
 - (a) A violation of these Regulations is punishable by a fine not less than fifty dollars (\$50), nor more than three hundred fifty dollars (\$350), or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense.
 - (b) Conviction of a second offense, both of which were committed within a period of five years, shall be punishable by a fine not less than three hundred fifty dollars (\$350), nor more than seven hundred dollars (\$700), or imprisonment for a period not to exceed six (6) months, or both.
 - (c) Conviction for a third or subsequent offense all of which were committed within a period of five (5) years, shall be punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000), or imprisonment for a period not to exceed six (6) months, or both.

SECTION 2 AREA REGULATIONS

2.1 Areas

2.1.1 Establishment and Purposes

- (1) The Town of Wayland is hereby divided into six areas.
- (2) In addition to the general purpose of these Regulations, each area is intended to accomplish the following particular purposes, which shall guide the regulation of all uses allowed in such Areas:
 - (a) **Agricultural-Residential (AG-R) Area.** To provide for low-density residential and other nonfarm uses; to encourage continued agricultural uses; to preserve open space and natural resources.
 - (b) **Aquatic (AQ) Area.** To provide for higher density residential and water-related recreational uses; and, to encourage the preservation of waterfront natural resources and scenic values.

- (c) **Commercial (C) Area.** To provide appropriate locations for highway-oriented business and traveler service facilities; and, to avoid traffic congestion and hazards.
 - (d) **Industrial (I) Area.** To provide appropriate locations for manufacturing, processing, and warehousing developments not dependent on municipal water supply or sewerage; to allow such uses with outdoor storage and service areas; and to accommodate such uses that may generate heavy traffic.
 - (e) **Critical Environmental Area (CEA) Overlay Area.** To protect, preserve, and promote the safe use of the existing and potential groundwater supply from development or land use practices that may adversely affect the quality or availability of water related to the aquifer located in the Town aquifer; to protect and preserve potential sources of future water supply for the public health, safety and general welfare; to assure an adequate supply of suitable drinking water for the residents of the Town; and to allow very low-density residential and recreational uses. This area shall overlay other areas within the Town. Any uses permitted in the area so overlaid shall be permitted only subject to all of the provisions of this area. In any case where conflicts arise between regulations applicable to the CEA Overlay Area and any other existing regulations, the more restrictive requirements shall apply.
 - (f) **Watershed Protection Overlay Area.** Until January 1, 2000, all land and structures within the Watershed Protection Overlay Area for both the Dansville Reservoir and Loon Lake shall be subject to the same requirements as the CEA Overlay Area, except that manufacturing, fabrication, and assembly shall be prohibited uses. These restrictions may be extended or modified by the Town Board, pending further study.
- (3) The Flood Damage Prevention Law, Local Law No. 1 of 1991, establishes additional restrictions for properties located in special flood hazard areas, as defined by that law and the Flood Insurance Rate Map for the Town (No. 36078413), dated June 8, 1984, in order to provide for safety of life and property from the hazard of flood; to protect water quality; and, to provide for the benefits of flood insurance for property owners through compliance with regulations of the Federal Emergency Management Agency. In any case where conflicts arise between regulations applicable under the Flood Damage Prevention Law and this Law, the more restrictive requirement shall apply.

2.1.2 Area Plan Map

The areas established by this Law are shown and bounded on the official Area Plan Map which, together with all explanatory matter on such Map, is hereby adopted by reference and declared to be a part of this Law. Such Map may comprise a number of map sheets drawn at

various scales in order to depict more clearly the areas shown on the Map. The Map shall show the date of enactment of these Regulations and of each subsequent Map amendment, and shall be duly certified and maintained on file by the Town Clerk.

2.1.3 Interpretation of Area Plan Map

- (1) Where uncertainty exists with respect to the boundaries of any area as shown on the official Area Plan Map, the following rules shall apply:
 - (a) Where boundaries of a district appear approximately to follow the center lines of roads, such center lines shall be construed to be such boundaries.
 - (b) Where boundaries of a district appear approximately to be parallel to the center lines or right-of-way lines of roads, such boundaries shall be construed as being parallel to such lines and at such distance from such lines as stated on the Map. If not stated, such distance shall be determined by using the scale on the Map.
 - (c) Where boundaries of a district appear approximately to follow platted lot lines, such lot lines shall be construed to be such boundaries.
 - (d) Where boundaries of a district appear to follow the bank of a stream or other watercourse, they shall be deemed to follow such bank, and in the event of any change in such bank, stream or other watercourse, shall be construed as moving with the actual bank. Boundaries indicated as approximately following the center line of such waterway shall be deemed to follow such center line.
 - (e) The Aquatic (AQ) Area includes all lands that adjoin (lakefront) or have a right-of-way to Loon Lake.
- (2) In any other case of uncertainty, the Planning Board shall determine the location of the boundary at the request of an applicant or the Plan Administrator; a formal appeal shall not be required. A file of all such determinations shall be maintained by the Planning Board.

2.2 ALLOWABLE USES

2.2.1 General Provisions

- (1) Except as otherwise provided in this Law, no premises or property shall be used for a purpose other than one allowed in the area in which it is situated. Uses are regulated as set forth in the schedules below (Subsections 2.2.2 and 2.2.3) as follows:

P designates a use allowed in the area with a **Building Permit**;

S designates a use allowed in the area with a **Special Permit**;

N designates that a use is not allowed in the area.

- (2) Uses that are not allowed in an area, if legally present on the effective date of these Regulations, shall be deemed to be nonconforming, as provided for in this Law.
- (3) Uses that are not specifically restricted by this Law are allowable uses, provided such uses are in compliance with the other federal, state and county and Town laws, rules and regulations, including, but not limited to the following laws of the Town:

Year	Local Law No.	Subject
1984	1	Accepting the Right and Responsibility for Enforcement of New York State Uniform Fire Prevention and Building Code by the Town of Wayland
1985	1	Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code
1985	2	Prohibiting Human Burials in Other than Authorized Cemeteries
1991	1	Flood Damage Prevention
1995	2	Junk Yards and the Storage of Junk and Junk Cars
1995	3	Repair or Removal of Unsafe Buildings and Collapsed Structures
1995	4	Permits for Building and Construction Activity for Placement of Manufactured Homes, For Regulation of Mobile Home Parks and for Land Area Requirements
1996	3	Water Conservation and Permitting Program

- (4) When an accessory use is identified in an application for a principal use, it shall be reviewed as part of such application, and no separate application need be submitted for such accessory use.

2.2.2 General Uses

PRINCIPAL USE	AG-R	AQ	C	I	CEA
Adult Book Store	N	N	S	N	N

Adult Entertainment Establishment	N	N	S	N	N
Commercial Storage	P	N	P	P	S
Communication Towers	S	N	S	S	S
Construction and Demolition Debris Landfill	S	N	N	S	S
Essential Services	S	S	S	S	S
Hazardous Waste or Radioactive Material Treatment, Storage or Disposal Facility	N	N	N	N	N
Municipal Park, Playground	S	S	S	S	S
Public Water Supplies, including Public Wells and Surface Water Intakes	S	S	S	S	S
Solid Waste Landfill, Transfer Station or Disposal Facility, or other Solid Waste Management Facility	N	N	N	S	N
Treatment Works	N	N	N	S	S
Utility Distribution Lines	S	S	S	S	S
Utility Facilities	S	S	S	S	S

2.2.3 Industrial Uses

PRINCIPAL USE	AG-R	AQ	C	I	CEA
Excavating and Mining Operations	S	N	S	S	S
Manufacturing, Fabrication, Assembly	S	N	S	S	S
Salvage Operations and Junk Yards	S	N	S	S	S
Oil and Gas Wells	S	N	S	S	S
Warehouse Storage	S	N	S	S	S

2.2.4 Special Restrictions in the Critical Environmental Area (CEA) Overlay District

- (1) **Additional Prohibited Uses and Activities.** The following uses and activities shall also not be allowed in the Critical Environmental Area (CEA) Overlay District:
 - (a) Open storage or on-ground storage of all fertilizers and chemicals. A cement pad is required when stored under cover.
 - (b) Excavations or cut-ins which expose groundwater permanently or during maximum elevation of the water table, or which significantly reduce the thickness of the soil cover and thus ease the entrance of contaminants into the groundwater.
 - (c) Storage of sludge, toxic substances, or radioactive materials.
 - (d) Any land use development otherwise allowed by Special Permit, but which development, after environmental review as required by SEQRA, has been determined to present such adverse environmental impacts upon the quality and availability of groundwater as to prohibit the development of the use under any circumstances.
- (2) **Monitoring Wells.** Any use permitted under this Law which commences on or after the effective date of this Law shall install, at the direction of the Town Board, if deemed appropriate to protect the aquifer, a minimum of one groundwater monitoring well in a direction upgradient from on-site activities and one groundwater monitoring well in a direction downgradient from on-site activities. The specific location of these groundwater monitoring wells shall be determined by a professional geologist, hydrogeologist, engineer or other qualified expert trained and experienced in hydrogeology and approved by the Planning Board. These wells shall monitor water quantity and quality on a continuous basis. The frequency of required water quality sampling from monitoring wells shall be determined on a site-specific basis by the Planning Board. Access to monitoring wells shall be provided to the employees of the Town and the New York State Health Department for purposes of any additional water quality sampling deemed appropriate.

2.2.5 Special Restrictions in the Commercial (C) and Industrial (I) Areas and For Industrial Uses.

At least one acre (1) shall be required for each use in the Commercial (C) and Industrial (I) areas, and each Industrial Use listed in Subsection 2.2.3 (to the extent allowed), and a site plan for each such use must be approved by the Planning Board.

**SECTION 3
SUPPLEMENTAL REGULATIONS**

3.1 GENERAL PROVISION

The provisions of this Section supplement those of Section 2. When there is a difference between the two, the more restrictive shall control, unless the context clearly requires otherwise.

3.2 PROTECTION OF NATURAL RESOURCES

3.2.1 Policy

Recognizing that environmental quality can affect land values in the Town, especially for residential, recreational, agricultural, and tourism uses, it is Town policy to protect and conserve productive farmlands, soil resources, woodlands and other wildlife habitat, scenic areas, and water quality. Regulations adopted for that purpose are hereby declared to promote the public health, safety, and general welfare.

3.2.2 General Provisions

A Building Permit is conditioned upon giving due consideration for the natural features of the site and its environment, including topography and soils; trees and other cover; streams, shorelines, and wetlands; and, scenic views.

3.2.3 Grading and Erosion Control

The Plan Administrator, Planning Board, or Board of Appeals may require changes in a proposed development plan, so that site preparation shall not cause unnecessary damage to adjacent property and is in compliance with New York State Freshwater Wetlands Act (Environmental Conservation Law Article 24), or federal law, including Section 404 of the Clean Water Act (33 U.S.C. Section 1344), or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

- (1) **Requirements.** When the Plan Administrator or the Code Enforcement Officer inspect a site and if they find that the development plan may cause damage to adjacent property, an application for a building permit shall be supplemented with an erosion control plan which shall be approved by the Planning Board.

3.3 YARDS

In addition to requirements established by other law, rules and regulations, including the Building and Mobile Home Permit Law, all yards shall comply with the requirements set forth in this Section 3.

3.3.1 Visibility

On a corner lot, nothing shall be erected, placed, planted or grown in such a manner as to obstruct materially the line of sight from one road to the other, between two and one-half (2½) and ten (10) feet above the centerline grades of such roads, within the triangular area bounded by the right-of-way lines and a line connecting points thereon located fifty (50) feet from their point of intersection.

3.3.2 Corner Lots and Through Lots

On a corner lot or a through lot, a front yard shall be provided along each frontage.

3.3.3 Architectural Projections

- (1) An open structure such as a deck, porch, stair, balcony, car-port, or similar architectural feature shall be considered part of a building to which it is attached, and shall not project into a yard.
- (2) A chimney, eave, window or bay window, may project not more than three (3) feet in depth into a yard. An uncovered patio or terrace, essentially at ground level, may extend into a yard.

3.4 MISCELLANEOUS REGULATIONS

3.4.1 Utility Distribution Lines, Utility Facilities, Communication Towers, and Water Supplies

The location, design and operation of utility distribution lines, utility facilities, communication towers, and water supplies shall not adversely affect the character of nearby residential areas. For that purpose, the Special Permit for such use may require that appropriate fences, buffer areas, camouflage, or landscaping be provided.

3.4.2 Public and Private Wells

In addition to requirements imposed by other laws, rules and regulations, including Local Law No. 3 of 1996, which established a Water Conservation and Permitting Program, all public and private wells shall comply with the requirements set forth in this Subsection 3.4.2.

- (1) **Well Log.** In order to better plan for the future, a well log is to be kept on all new wells dug or driven in the Town. One copy of this log shall be given to the property owner, and a copy shall be given to the Town Clerk.

The following information shall be included in the log:

- (a) Depth of well in feet.
- (b) Depth of water in well in feet.
- (c) Gallons of water pumped per minute.
- (d) Number of minutes pumping sustained.
- (e) Length of recovery time.

- (2) **Additional Requirements For Monitoring Public Wells**

- (a) Meters shall be double-locked, so that no one person can reset.
- (b) For readings a representative from the operator must be present, and a representative from the Town. Each shall keep his or her own separate well log.
- (c) The Town log shall be presented to the Town Board at the next monthly meeting, and a copy retained by the Town Clerk.

3.4.3 Excavation and Mining Operations

- (1) **Operation.** In any district where allowed, a Special Permit shall be required for the excavation or mining of earth material or minerals for commercial purposes, such as top soil, fill, sand, gravel, or salt, including the separation and grading of sand or gravel. Such an operation shall be subject to the following regulations:
 - (a) The Planning Board may limit use of Town highways by truck traffic to and from the excavation or mine, in order to mitigate noise, vibration, dust and other impacts on other properties.
 - (b) A Special Permit, after Site Plan review, shall be required for expansion of present operations, including expansion of active operations on the same lot.
- (2) **Other Restrictions.** An excavation or mine must meet the following standards,

which shall be conditions on any Special Permit, except to the extent the excavation or mine must be permitted by the New York State Department of Environmental Conservation, pursuant to the Mined Land Reclamation Law, Title

27 of Environmental Conservation Law Article 23. If the excavation or mine must be permitted by the New York State Department of Environmental Conservation, the Town Supervisor shall request, during the permitting process conducted by the New York State Department of Environmental Conservation, that the excavation or mine satisfy the following standards, and such standards shall be imposed as conditions on the Special Permit to the extent imposed by the Department of Environmental Conservation permit and allowed by Environmental Conservation Law Sections 23-2703(2)(b) and 23-2711(3).

- (a) **Setbacks.** All structures and excavations shall be not less than fifty (50) feet from any street right-of-way or other property line.
 - (b) **Fencing.** Fencing or similar effective barriers not less than six (6) feet in height may be required where an excavation is to exceed four (4) feet in depth.
 - (c) **Removal of Structures and Machinery.** All buildings, structures, and machinery used in such operations shall be removed within six (6) months following termination of operations.
 - (d) **Equipment.** All equipment used for the excavation and processing shall be equipped, maintained and operated in such a manner as to eliminate, as far as practical, noise, vibration and dust, to prevent annoying and injurious conditions on adjoining properties.
 - (e) **Size.** Only five (5) acres of any one facility may be open at one time for mining. An additional five (5) acres may be used for stockpiling.
- (3) **Restoration.** The excavated or mined area must be rehabilitated in accordance with the following standards, within one (1) year after termination of operations. The Planning Board may require the posting of a bond or equivalent security sufficient to cover such rehabilitation.
- (a) Excavated topsoil shall be set aside on-site for future restoration.
 - (b) Side slopes of excavated areas shall not be steeper than one (1) foot vertical distance for each one and one-half (1½) feet of horizontal distance.

- (c) All excavations must either be:
 - (i) made into a pond by excavating to a level not less than four (4) feet below water producing depth; or
 - (ii) be filled if necessary to a level above the seasonal high water table, and graded and drained.
- (d) Excavated areas, after grading and sloping, shall be mulched and seeded or planted with trees, shrubs, grasses or legumes so as to minimize erosion and assure revegetation of the area.
- (e) Grading and backfilling shall leave the site in substantial conformity with the topography of adjoining lands.

(4) **Hours of Operation.**

May 1 to September 30 - 7:00 AM to 9:00 PM
October 1 to April 30 - 7:00 AM to 9:00 PM

- (5) **Nonconforming Excavation and Mining Operations.** In order to qualify as a nonconforming use exempt from the requirement to obtain a Special Permit, an excavation or mining operation must have been actively operated during the one-year period ending on the effective date of this Law. Otherwise, a preexisting facility must obtain a Special Permit.

3.4.4 Rental Units

- (1) All rental units shall have adequate smoke detectors for the size of unit, as recommended by the manufacturer and local fire department.
 - (a) Smoke detectors shall be supplied and maintained by the landlord, according to manufacturers' recommendations.
- (2) All rental units shall be inspected by the Code Enforcement Officer, and the Fire Chief if the Fire Chief so desires, annually.

3.4.5 Residential Cluster Development

- (1) **Authorization.** In accordance with Town Law Section 278, the Planning Board is authorized to grant Special Permits to modify the density requirements set forth in the Building and Mobile Home Permit Law, in the case of Residential Cluster Development in any Residential District.

- (2) **Purpose.** The purpose of such modifications shall be to allow and encourage flexibility of design and development in a manner to promote the most appropriate use of land, and to facilitate economical provision of streets and utilities and to preserve open space.
- (3) **Conditions.**
 - (a) **Residential Land.** This procedure shall be applicable only to lands intended for residential purposes.
 - (b) **Density.** The permitted number of dwellings shall in no case exceed the number of units which could be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements specified in the Building and Mobile Home Permit Law.
 - (c) **Open Space.** In the event that this procedure results in lands available for open space or recreation uses, such lands shall either be deeded to the Town, or held in corporate ownership by the owners of the lots within the development, and the deeds of all property within the development shall carry a clause giving the lot owners an interest in such open space uses only. Adequate agreements shall be made to provided for the continuing maintenance of such open space and recreation areas.
 - (d) **Site Plan Review.** The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces, landscaping, parking areas, streets and other physical features as shown or otherwise described in the accompanying statement, shall be reviewed by the Planning Board.

SECTION 4 APPLICATION PROCEDURE

4.1 BUILDING PERMIT

4.1.1 Requirement

- (1) No site preparation or development shall be commenced or occur unless in accordance with a Building Permit.
- (2) No Building Permit shall be issued for premises where there exists a violation of these Regulations, except that one may be issued for the purpose of correcting such violation, provided that any applicable fines or penalties are paid.

4.1.2 Pre-application

An applicant may obtain an application for a Building Permit from the Town Clerk. An applicant may schedule a meeting with the Plan Administrator or the Code Enforcement Officer to discuss the proposed development to clarify procedures or other requirements and to identify possible problems to be overcome. No fee shall be charged for such consultation.

4.1.3 Application Submittal

An application for a Building Permit shall be submitted to the Plan Administrator, together with any required supplemental information. The application shall be deemed complete upon acceptance by both the Plan Administrator and the Code Enforcement Officer as a complete Building Permit application. All materials accepted shall become part of the permanent records of the Plan Administrator.

4.1.4 Review Procedure

- (1) **Review By Plan Administrator.** A completed application shall be reviewed by the Plan Administrator, who shall also inspect the site of the proposed development. The Plan Administrator shall determine whether the proposal would be in full compliance with all relevant provisions of this Law.
- (2) **Review By Code Enforcement Officer.** A completed application shall also be reviewed by the Code Enforcement Officer, who shall determine whether the proposal would be in full compliance with the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the other laws of the Town.
- (3) **Decision.** Within five (5) days after an application is submitted, the Plan Administrator and the Code Enforcement Officer shall issue or deny a Building Permit, as follows:
 - (a) A Building Permit shall be denied when the proposal is for a use not allowed in the district where the property is located, would otherwise not comply with provisions of this Law, requires a Variance or a Special Permit and such a Variance or Special Permit has not been obtained, or does not comply with the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and/or other laws of the Town. In that case, the Plan Administrator shall mail the applicant a written statement of the reason for rejection, and shall retain one copy in his file.
 - (b) A Building Permit shall be issued when the proposal is for a use allowed in the district in which the property is located and would comply with all relevant requirements in this Law, and, to the extent applicable, the Uniform Code,

the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the other laws of the Town.

4.1.5 Permit

- (1) **Authorization.** A Building Permit and payment of the applicable fee to the Plan Administrator is authorization for the applicant to start site preparation for the intended development. During the course of the work, the Plan Administrator and the Code Enforcement Officer shall inspect the site to ensure compliance with the Permit.
- (2) **Lapse.** When site preparation has not been begun within ninety (90) days, or has not been completed within one (1) year, of the date of a Building Permit, the Permit shall lapse, and the Plan Administrator shall so notify the applicant. However, the applicant may request an extension for good cause, which the Code Enforcement Officer may allow. The Plan Administrator shall maintain a file of such extensions requested, and his disposition thereof. Failure to complete site preparation and development within one (1) year shall be a violation of this Law.
- (3) **Effect.** The issuance of a Building Permit shall in no case be construed as waiving any provision of this Law, the Uniform Code, or any other law, rule or regulation. Further, issuance of a Building Permit does not constitute any representation, guarantee, or certification of the Town that the applicant's proposal complies with applicable federal, state or local laws, ordinances, rules or regulations, or is functional or safe to use or enter. The issuance of a Building Permit pursuant to the provision of these Regulations shall not be deemed to waive compliance by the Permit holder, the property owner, or by any occupant, with any laws or regulations of the State of New York, or law of the Town of Wayland.

4.2 CERTIFICATE OF OCCUPANCY OR COMPLIANCE

4.2.1 Requirement

Except as specifically otherwise provided by this Law, no building, other structure or land that is erected or altered in its use, or building, other structure, or land shall be used or occupied, until the Code Enforcement Officer shall have issued a Certificate of Occupancy or Certificate of Compliance, in which he states that such land, building, or structure, and the proposed occupancy or use, are found to be in conformity with the provisions of this Law, and that any construction or other work has been completed in conformity with, if applicable, the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the other laws of the Town.

4.2.2 Issuance

Within three (3) business days after receipt of written notification that a building, other structure or land is ready for occupancy or use, it shall be the duty of the Code Enforcement Officer, or his deputies or agents, to make a final inspection of such building, other structure or land, and issue a Certificate of Occupancy or Certificate of Compliance if the building, structure or land is found to conform with the provisions of this Law, and if applicable, the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the other laws of the Town.

4.2.3 Refusal

If the Code Enforcement Officer, after such final inspection refuses to issue a Certificate of Occupancy or Certificate of Compliance, such refusal, with the cause, specifying whether refusal is based upon this Law, the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and/or other laws of the Town, shall be stated in writing, and notice of such refusal immediately mailed to the applicant, by certified mail, return receipt requested, at the address indicated on the notification.

4.2.4 Effect

The issuance of a Certificate of Occupancy or Certificate of Compliance shall in no case be construed as waiving any provision of this Law, the Uniform Code, or any other law, rule or regulation. Further, issuance of such a Certificate does not constitute any representation, guarantee, or certification of the Town that the applicant's use, land, building or structure complies with applicable federal, state or local laws, ordinances, rules or regulations, or is functional or safe to use or occupy. The issuance of a Building Permit pursuant to the provision of these Regulations shall not be deemed to waive compliance by the Permit holder, the property owner, or by any occupant, with any laws or regulations of the State of New York, or law of the Town of Wayland.

4.3 SPECIAL PERMIT

4.3.1 Purpose

Special Permit uses designated in this Law are hereby declared to be generally appropriate in the areas in which they are allowed. Nevertheless, their location, design, and site preparation require particular attention in order to prevent or minimize undesirable effects on nearby properties or on the general welfare of the Town. For that reason, such uses shall be allowed only in accordance with a Special Permit.

4.3.2 Requirement

- (1) No site preparation or development shall be commenced or occur for a purpose only allowable by a Special Permit, except in accordance with a Special Permit.
- (2) No Special Permit shall be issued for premises where there exists a violation of these Regulations, except that one may be issued for the purpose of correcting such violation.
- (3) No person shall establish or maintain a junkyard or store junk on any premises within the Town unless a permit has first been issued for such junkyard or junk storage pursuant to this Law, and the premises comply with the Junk Law.

4.3.3 Pre-application. An applicant may obtain an application for a Special Permit from the Plan Administrator, and may seek advice on the proposal, as provided for in Subsection 4.1.2.

4.3.4 Submittal. The application for a Special Permit (including a Site Plan) shall be submitted to the Plan Administrator, together with any required supplemental information. The Plan Administrator shall determine when the information supplied constitutes a complete Special Permit application, and shall promptly transmit a copy of the application to the Planning Board.

4.3.5 Review Process

- (1) **SEQRA.** Promptly after receiving an application for a Special Permit, the Planning Board shall undertake SEQRA review, in accordance with Section 4.8. After completing SEQRA review, the Board shall complete action on the application.
- (2) **Referral to Steuben County Planning Board.** As required by General Municipal Law Section 239-m and Section 4.9 of this Law, a referral shall be made to the Steuben County Planning Board, and a supermajority vote may be required.
- (3) **Hearing.** The Planning Board shall fix a reasonable time for the hearing of any application for a Special Permit, which shall be within thirty-five (35) days from the day the application is received. At the hearing, any party may appear in person or by agent or by attorney.
- (4) **Notice.** The Planning Board shall give public notice of the hearing on an application for a Special Permit, by the publication of a notice of such hearing in a newspaper of general circulation in the Town at least ten (10) days prior to the date of the hearing. Notice of such a hearing shall also be given by personal delivery or mailing, at least ten (10) days prior to the date of the hearing, to all persons, firms or corporations

owning or residing on property adjacent to the property which is the subject of the hearing. "Adjacent property" shall include properties abutting at the centerline of a street or right-of-way. All costs of sending or publishing any notices relating to an application shall be paid by the applicant, and shall be paid to the Board prior to the hearing on the application.

4.3.6 Standards and Findings

A development allowable by Special Permit must be generally compatible with other properties in the vicinity, in terms of overall appearance and external evidence of normal operations. Fences, planting screens, or buffer areas may be used to help meet this standard. Further, such a development must be consistent with protection of public health, safety, and welfare, and the environment, including any nearby aquifer or surface water body. To guide its decision, the Planning Board shall prepare written findings from the record, stating how a proposed development would or would not meet these standards.

4.3.7 Decision and Permit

- (1) **Decision.** The Planning Board shall decide the application for a Special Permit within thirty-five (35) days after the hearing. The concurring vote of a majority of the members of the Planning Board shall be necessary to grant a Special Permit. A Special Permit may only be granted if the Planning Board determines that the development as proposed meets applicable standards stated in Subsection 4.3.6, and other relevant requirements stated in this Law. In its decision, the Planning Board may:
 - (a) decline to grant a Special Permit for the development, stating the reasons for such decision; or
 - (b) grant a Special Permit for the development, stating any modifications or other conditions found by the Board to be reasonable and necessary for the purpose of these Regulations; or
 - (c) grant a Special Permit for the development as proposed in the application.
- (2) **Filing of Decision and Notice.** The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy of such mailed to the applicant. A copy of the appropriate minutes may suffice for this notice. Further, if reference to the Steuben County Planning Board was made, the Planning Board shall file a report as required by Section 239-m(6) of the General Municipal Law and Subsection 4.9.4 of this Law.

- (3) **Building Permit.** Following a decision granting a Special Permit, the Plan Administrator and Code Enforcement Officer shall promptly act upon the applicant's application for a Building Permit, as provided by Section 4.1. Any Building Permit issued shall be subject to any modifications or other conditions imposed by the Planning Board.
- (4) **Recourse.** Any person or persons, jointly or severally aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the Town arising under this Law, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such a proceeding must be instituted within thirty (30) days after the filing of a decision of the Planning Board in the office of the Town Clerk.
- (5) **Repeat Applications.** Whenever the Planning Board, after hearing all the evidence presented upon an application, under provision of this Law, denies or rejects the same, the Board shall refuse to hold further hearings on the same or substantially similar application by the same applicant, their successors or assignees, for a period of one (1) year, unless required by the Town Board.

4.3.8 A Change in Use

- (1) Where a Special Permit has been previously issued, a change in use requires application for a new Special Permit.
- (2) If there is a change in ownership, the new owner must apply to the Plan Administrator for a Special Permit even if there is no change in use. The permit shall be granted automatically by the Plan Administrator, subject to the agreement by the new owner to adhere to the conditions of the Special Permit.

4.4 ADMINISTRATIVE REVIEW

4.4.1 Purpose. An appeal for an Administrative Review may be filed by any aggrieved person in order to obtain:

- (1) An interpretation of a particular provision of these Regulations, or
- (2) Correction of an alleged error in an order, requirement, decision, or determination by the Plan Administrator, or another administrative officer made pursuant to this Law.

4.4.2 Procedure

The procedure for obtaining an administrative review by the Board of Appeals is set forth in Subsection 6.5.4.

4.4.3 Decision

The Board of Appeals shall affirm the determination of the Plan Administrator or other administrative officer unless it shall find the error alleged, or other ground for reversal or modification. In that case, the Board may make such order, requirement, decision or determination as it shall find to be correct, so that the spirit of these Regulations shall be observed, public safety and welfare secured, and substantial justice done. Where an interpretation of a provision of the Regulations was requested, the Board's decision shall provide that interpretation and the reasons for such interpretation. A file of such decisions shall be maintained for reference.

4.5 APPEAL FOR A VARIANCE

4.5.1 Purpose

The Board of Appeals shall have the power, in granting an appellant relief, to vary or modify provisions of this Law, and the Building and Mobile Home Permit Law, relating to the use, construction, or alteration of buildings or other structures, or the use of land, so that the spirit of these Regulations shall be observed, the public safety and welfare secured, and substantial justice done.

4.5.2 Procedure

The procedure for obtaining Variance from the Board of Appeals is set forth in Subsection 6.5.4.

4.5.3 Use Variance *(Added Variance fee charge of *25.00 set by Board Resolution see minutes 11/17/97 pg. 36)*

- (1) **Proof Required.** No such Use Variance shall be granted by a Board of Appeals without a showing by the applicant that applicable regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that (1) under applicable regulations the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- (2) **Minimum Necessary Variance.** The Board of Appeals, in the granting of Use Variances, shall grant the minimum Variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same

time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4.5.4 Area Variance

- (1) **Considerations.** In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the Variance is granted, as weighed against the detriment of the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance; (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an Area Variance; (3) whether the requested Area Variance is substantial; (4) whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.
- (2) **Minimum Necessary Variance.** The Board of Appeals, in granting an Area Variance, shall grant the minimum Variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4.5.5 Imposition of Conditions

The Board of Appeals shall, in the granting of Use Variances and Area Variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such Variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such Variance may have on the neighborhood or community.

4.5.6 Decision

The Board of Appeals may only grant a Variance if the appellant satisfies the applicable standards set forth in either Subsection 4.5.3 or 4.5.4. The decision of the Board of Appeals shall include written findings from the record, stating how the appropriate standards are or are not met.

4.5.7 Building Permit

Following a decision granting a Variance, the Plan Administrator and Code Enforcement Officer shall promptly act upon the applicant's application for a Building Permit, as provided by Section 4.1. Any Building Permit issued shall be subject to any modifications or other conditions imposed by the Board of Appeals.

4.5.8 Lapse

A Variance authorized by the Board of Appeals that is not exercised within one year from the date of issuance shall expire without further action by the Board.

4.6 AMENDMENTS

4.6.1 Advisory Report by Planning Board

A proposed amendment to this Law, unless initiated by the Planning Board, shall be referred by the Town Board to the Planning Board. It shall report its recommendation to the Town Board, and the reasons for such recommendation, within thirty (30) days or such longer time as may have been agreed upon by it and the Town Board, or the Town Board may act without such report.

4.6.2 SEQRA

Promptly after receiving a proposal for an amendment, the Town Board shall undertake SEQRA review, in accordance with Section 4.8. After completing SEQRA review, the Board shall complete action on the amendment.

4.6.3 Referral to Steuben County Planning Board

As required by General Municipal Law Section 239-m and Section 4.9 of this Law, a referral shall be made to the Steuben County Planning Board, and a supermajority vote may be required.

4.6.4 Municipal Home Rule Law

The procedures governing the adoption of local laws under the Municipal Home Rule Law shall also be applicable to amendments to this Law.

4.6.5 Hearing

The Town Board shall fix a reasonable time for a public hearing on any proposed Amendment to this Law. The hearing shall be duly held and any person may present relevant information

or views pertaining to the proposal, in person or by agent or by attorney. A representative of bodies required to be given notice pursuant to Subsection 4.6.6 may also appear and be heard at the hearing. The minutes of the hearing shall summarize the information received.

4.6.6 Notice

- (1) **Public Notice.** The Town Board shall give public notice of the hearing on the proposed amendment by the publication of a notice of such hearing in a newspaper of general circulation in the Town at least ten (10) days prior to the date of the hearing.
- (2) **Governmental Units.** At least ten (10) days prior to the date of the public hearing, written notice of any proposed amendment affecting property within five hundred (500) feet of the following shall be served personally or by mail upon each person or persons listed below:
 - (a) The property of the housing authority erecting or owning a housing project authorized under the Public Housing Law; upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance to such agency.
 - (b) The boundary of a village (including the Village of Wayland) or town; upon the clerk of such municipality.
 - (c) The boundary of a county; upon the clerk of the board of supervisors or other person performing like duties.
 - (d) The boundary of a state park or parkway; upon the regional state park commission having jurisdiction over such state park or parkway.
- (3) **Costs.** If an amendment is requested by application of the owner, developer, or contractor of the affected property, all costs of sending or publishing any notices relating to an application shall be paid by the applicant, and shall be paid to the Town Board prior to the hearing on the application.

4.6.7 Decision

The Town Board shall make its decision on a proposed amendment within thirty (30) days after the close of the public hearing. Amendments (excluding any map) shall be entered in the minutes of the Town Board. Such minutes shall describe and refer to any map adopted in connection with such change, amendment or supplement. A copy, summary or abstract of such amendment (exclusive of any map) shall be published once in a newspaper of general circulation in the Town, and an affidavit of the publication of such notice shall be filed with

the Town Clerk. Such amendment shall take effect upon filing in the offices of the Town Clerk and the Secretary of State. The Town Clerk shall maintain every map adopted in connection with an amendment to the Area Plan Map. Further, if reference to the Steuben County Planning Board was made, the Town Board shall file a report as required by Section 239-m(6) of the General Municipal Law and Subsection 4.9.4 of this Law.

4.6.8 Protest by Owners

When a protest against a proposed amendment is presented to the Town Board by the owners of twenty percent (20%) or more of the area of either

- (1) the property affected by the amendment; or
- (2) properties immediately adjacent to and extending one hundred (100) feet from such affected property; or
- (3) properties directly opposite such affected property, and extending one hundred (100) feet from the frontage of such directly opposite properties;

then such amendment shall not be enacted except by the affirmative vote of four of the members of the Town Board.

4.6.9 Periodic Review

At least once every five (5) years following their enactment, the Planning Board with the advice of the Board of Appeals and the Plan Administrator shall review these Regulations in their entirety. The Planning Board shall report to the Town Board any amendments it considers desirable. The failure to make such review or report shall not affect the validity of this Law.

4.7 FEES

A fee, as set by resolution of the Town Board, shall be paid to the Plan Administrator with the filing of an application or appeal. No action shall be taken on the matter until the applicable fee has been paid.

4.8 STATE ENVIRONMENTAL QUALITY REVIEW ACT

4.8.1 Policy

In accordance with SEQRA, it is hereby declared to be a policy of the Town that protection and enhancement of the environment be given appropriate weight with social and economic

considerations, and that those factors be considered together in reaching decisions on proposed developments under these Regulations.

4.8.2 Completion of SEQRA Review

Applications for Special Permits, Appeals for Variances, and proposals to amend these Regulations shall be reviewed as provided in SEQRA, to determine whether the proposed action might have a significant effect on the environment, and, if so, how possible adverse effects could be mitigated or prevented. No action shall be taken upon any such proposal until either:

- (1) The proposal is determined to be a Type II action under SEQRA or otherwise exempt from SEQRA review; or
- (2) A negative declaration is filed, as provided by SEQRA; or
- (3) For proposed actions that might have a significant effect on the environment, a final environmental impact statement and SEQRA findings are filed.

4.8.3 Exempt Actions

The following actions under these Regulations are not subject to environmental review under SEQRA:

- (1) Enforcement actions, including issuance of a Notice of Violation, Cease and Desist Order, and Appearance Ticket.
- (2) Ministerial actions, including issuance of a Building Permit or Certificate of Occupancy or Compliance.
- (3) Area Variance from the required minimum size of required yards.
- (4) Agricultural farm management practices, including the construction, maintenance and repair of farm buildings and structures, and land uses consistent with generally accepted practices of farming.
- (5) Special Permits for construction of a non-residential structure or facility involving less than 4,000 square feet of gross floor area, not including communication towers.
- (6) Determination of an appeal for Administrative Review, or a request for clarification of a district boundary.

4.9 REFERRAL TO STEUBEN COUNTY PLANNING BOARD

4.9.1 Requirement

In accordance with the policy and procedures provided for by Section 239-m of the General Municipal Law, and except as may be provided by an agreement approved by the Town Board and the Steuben County Planning Board with respect to matters of local rather than inter-community or county-wide concerns, a full statement shall be referred to the Steuben County Planning Board of any proposed Variance, Special Permit, or Amendment to this Law affecting real property within five hundred (500) feet of:

- (1) The boundary of the Town of Wayland with any adjoining town.
- (2) The boundary of any village, including the Village of Wayland.
- (3) The boundary of any existing or proposed county or state park or other recreational area.
- (4) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
- (5) The existing or proposed right-of-way of any stream, or drainage channel owned by the County for which the County has established channel lines.
- (6) The existing or proposed boundary of any County or State owned land on which a public building or institution is situated.
- (7) The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law.

4.9.2 Failure of County Planning Board to Report

If the Steuben County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred matter, the board considering such Variance, Special Permit or Amendment may act without such report.

4.9.3 Supermajority Requirement

If a report from the Steuben County Planning Board which recommends modification or disapproval of the proposed action is received by the board considering such Variance, Special Permit or Amendment, either within thirty (30) days of receipt of a full statement of such referred matter by the Steuben County Planning Board, or at least two (2) days prior to

final action by the board, such board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members of the board.

4.9.4 Report to the Steuben County Planning Board

Within thirty (30) days after the board makes a decision on such Variance, Special Permit or Amendment, such board shall file a report of the final action it has taken with the Steuben County Planning Board. If such board acts contrary to a recommendation of modification or disapproval by the Steuben County Planning Board, it shall set forth the reasons for such contrary action in such report.

SECTION 5 CONTENT OF APPLICATION

5.1 GENERAL PROVISIONS

5.1.1 Forms

An applicant or appellant may obtain the proper forms from the Plan Administrator or Code Enforcement Officer. Such forms and supplemental information, identified in this Section 5.1 or specified by such officers, are hereby declared to provide the minimum information necessary for the purposes of these Regulations.

5.1.2 Additional Information Requested

An applicant or appellant shall provide appropriate information, such as a plot plan, scaled drawings, and/or sketches and descriptions of the property, showing existing and proposed conditions. The Plan Administrator and Code Enforcement Officer in each case shall specify the types of information and level of detail for a complete application. Such determination shall be subject to Administrative Review.

5.1.3 Additional Information From Applicant

An applicant or appellant who contends that the specified information would present an inaccurate picture of the matter may provide any desired additional documentation, which shall be part of the record.

5.2 BUILDING PERMIT

5.2.1 Form

The application form shall provide spaces for an application number and the date accepted, and shall present the following information:

- (1) Name, postal address, and telephone number of the owner of record of the property; and of the applicant, if different; the applicant's legal relationship to the owner;
- (2) If the owner or applicant is a partnership, limited liability partnership, limited liability company, corporation, or joint venture, the name and address of each partner, member, officer, director, and/or director, to the extent applicable;
- (3) Tax map identification (map sheet, block and parcel numbers), fire number, and street or road number of the property;
- (4) Present use or uses of the property;
- (5) Proposed Allowable Use if listed in Section 2.2, or other proposed use or uses if not listed in Section 2.2;
- (6) Brief description of work or change proposed to be undertaken; and
- (7) Layout or plot plan showing actual dimensions of any building or structure (including any mobile home) to be erected or placed on the lot.

5.2.2 Supplemental Information

An application also shall include enough information describing the proposal so as to allow the Plan Administrator to determine its compliance with these Regulations, including one or more clear drawings at a scale that shall show all necessary details, including any applicable items listed in Subsection 5.3.

5.3 SPECIAL PERMIT

5.3.1 Form

The application form shall provide spaces for an application number and the date accepted, and shall present the information specified in Subsection 5.2.1.

5.3.2 Supplemental Information

An application for a Special Permit shall also include:

- (1) **Drawings and Appropriate Information.** Drawings and other appropriate information describing the proposal in sufficient detail so that the Planning Board can prepare the findings required by Subsection 4.3.6.
- (2) **Site Plan.** Applications for a Special Permit must include a Site Plan. The Site Plan shall be drawn to scale, indicating all dimensions, and display the following:
 - (a) **Existing Conditions.** The following existing features shall be included:
 - (i) property lines, rights-of-way, easements; roads, and road names;
 - (ii) lot area and dimensions;
 - (iii) name of owners of adjoining properties; location and dimensions of required front, rear, and side yards;
 - (iv) identification, location and dimensions of all existing buildings and other structures, including fences;
 - (v) location, dimensions, and surfacing of all existing drives and parking areas;
 - (vi) height above or below road level;
 - (vii) location and description of existing wells, abandoned open wells, other water supplies, and sewerage facilities on the property, or within 150 feet on other properties;
 - (viii) identification of all utility lines on or adjacent to the property;
 - (ix) lakes, ponds, streams, ditches, culverts, wetlands, floodplains, and other water bodies on or adjacent to the property and direction of flow;
 - (x) all junk storage areas for commercial, agricultural or industrial use;
 - (xi) all existing and proposed accessways, and parking and loading areas; and
 - (xii) topographic contours (lay of the land).

- (b) **Proposal.** The Site Plan shall detail changes to any of the above features; identification, location and dimensions of all proposed buildings and other structures, including fences, drives and parking/loading areas, signs, exterior lighting fixtures, drainage, utilities; and, landscaping, grading and erosion control plans wherever required pursuant to Section 3.3; and a storm drainage and grading plan regarding proposed handling of surface water runoff and erosion control.
- (3) **Additional Information.** Such other information as the applicant may consider relevant, or as may be required by the Planning Board.
- (4) **EAF.** Unless the application is exempt from SEQRA, an appropriate EAF shall be submitted, with Part I duly completed (unless a draft environmental impact statement is filed).

5.3.3 Grounds for Special Permit

The application shall also set forth the grounds for a Special Permit, with reference to the applicable standards under Subsection 4.3.6.

5.4 CERTIFICATE OF OCCUPANCY OR COMPLIANCE

An application submitted for a Building Permit shall serve also as the application for a Certificate of Occupancy or Certificate of Compliance, and the information provided on such application shall enable the Code Enforcement Officer to determine whether all site preparation has been completed properly.

5.5 ADMINISTRATIVE REVIEW

5.5.1 Form

The form for a notice of appeal shall provide spaces for an application number and the date accepted, and shall present the following information:

- (1) Name, postal address, and telephone number of the owner of record of the property; and of the applicant, if different; the applicant's legal relationship to the owner; and
- (2) Tax map identification (map sheet, block and parcel numbers), fire number, and street or road number of the property.

5.5.2 Grounds for Appeal

The notice of appeal shall also identify the order, requirement, decision or determination of the Plan Administrator or other administrative officer from which the appeal is taken, and the error alleged; or, the specific provision of the Regulations for which the appellant seeks an interpretation.

5.6 VARIANCE

5.6.1 Form

The form for an application for a Variance shall provide spaces for an application number and the date accepted, and shall present the information specified in Subsection 5.2.1.

5.6.2 Supplemental Information

An application for a Variance shall also include:

- (1) Whether a Use or Area Variance is sought;
- (2) Identification of the restriction or regulation from which a Variance is sought, including the section of this Law that imposes such restriction; and
- (3) Extent or nature of the Variance sought.

5.6.3 Grounds for Variance

The application shall set forth the grounds for a Variance, with reference to the applicable standards under either Subsection 4.5.3 or 4.5.4, as applicable.

5.6.4 Site Plan

The Plan Administrator or the Board of Appeals may also require a Site Plan, and may require that it satisfy the requirements of Subsection 5.3.2(2).

5.6.5 EAF

Unless the application is exempt from SEQRA, an appropriate EAF shall be submitted, with Part I duly completed (unless a draft environmental impact statement is filed).

SECTION 6
DUTIES AND POWERS OF TOWN OFFICERS

6.1 TOWN BOARD

The Town Board has the responsibility of appointing the Plan Administrator, Code Enforcement Officer, Planning Board, and Board of Appeals, and reviewing monthly reports of the Plan Administrator and Code Enforcement Officer. The Town Board shall also have the power to amend and review this Law, as provided by Section 4.6.

6.2 PLAN ADMINISTRATOR

6.2.1 Appointment

The Town Board shall appoint a Plan Administrator, who may be a member of the Planning Board, but not a member of the Board of Appeals, to administer and enforce these Regulations. He shall serve at the pleasure of the Town Board.

6.2.2 General Duties

The Plan Administrator shall administer these Regulations, and shall have such powers as are set by the Town Board, and as may be reasonably implied.

6.2.3 Specific Duties

The Plan Administrator shall have the following particular powers and duties:

- (1) Explain the Regulations set forth in this Law to the public.
- (2) Review all applications or appeals before permits are issued, as provided for in this Law.
- (3) Review Site Plans before being presented to the Planning Board.
- (4) Record decisions and submit a monthly report to the Town Board.

6.3 CODE ENFORCEMENT OFFICER

6.3.1 Appointment

Pursuant to the Uniform Code Enforcement Law (Local Law No. 1 of 1985), the Town Board shall appoint a Code Enforcement Officer to inspect the construction and repair of

buildings and structures, and enforce the provisions of the New York State Uniform Fire Prevention and Building Code, and other applicable laws, and, where applicable, these Regulations. He shall serve at the pleasure of the Town Board. The Plan Administrator and the Code Enforcement Officer may be the same person, if qualified.

6.3.2 Duties

The Code Enforcement Officer shall have such powers as are conferred upon him by the Town Board, including the powers set forth in the Uniform Code Enforcement Law, and as may reasonably be implied. For the purpose of these Regulations, the Code Enforcement Officer shall have the following duties:

- (1) To issue Building Permits after approval of Plan Administrator and/or Planning Board in compliance with the provisions of these Regulations;
- (2) Upon finding that any provision of these Regulations is being violated, to notify in writing the person responsible for such violation and the action necessary to correct said violation;
- (3) To order discontinuance of illegal uses of land, buildings, or structures;
- (4) To order removal of illegal buildings or structures, or illegal additions or structural alterations;
- (5) To order discontinuance of any illegal work being done;
- (6) To take any other action authorized by the Plan Administrator, Planning Board, or Board of Appeals to assure compliance with or prevent violations of these Regulations;
- (7) To issue permits which do not interfere with this Law or other laws;
- (8) To submit a written monthly report to the Plan Administrator describing and enumerating actions taken and permits issued under these Regulations so it can be incorporated into the plan Administrator's monthly report to the Town Board.

6.4 THE PLANNING BOARD

6.4.1 Continuation

The Planning Board created by Local Law No. 1 of 1996 shall continue in existence, with the terms of office already established.

6.4.2 Appointment

The members of the Planning Board shall be appointed by the Town Board, subject to the provisions of this Subsection 6.4.2.

- (1) **Terms.** The Planning Board shall consist of five (5) persons appointed by resolution of the Town Board. The terms of members of the Planning Board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. No person shall be disqualified from serving as a member of the Planning Board by reason of serving as a member of the Steuben County Planning Board or the Village of Wayland Planning Board. Members may be appointed to successive terms.
- (2) **Agricultural Members.** At least two of the members of the Planning Board shall be an agricultural member, as provided by Town Law Section 271(11). Each such agricultural member must derive ten thousand dollars or more annual gross income from agricultural pursuits in the Town of Wayland.
- (3) **Chairperson.** The Town Board shall, by resolution, designate the Chairperson of the Planning Board. In the absence of a Chairperson the Planning Board may designate a member to serve as Chairperson.
- (4) **Removal.** The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.
- (5) **Vacancies.** If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

6.4.3 Powers

The Planning Board shall have the following powers:

- (1) **Permits.** The Planning Board shall consider and act upon applications for Special Permits, as provided in Section 4.3, and permits under the Junk Law.
- (2) **Comprehensive Plan.** The Town Board may, by resolution, direct the Planning Board to revise the Comprehensive Plan, or prepare an amendment to such plan. In such event, the Planning Board shall hold one or more public hearings and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such plan or amendment, and after such hearings and meetings shall, by resolution, recommend a proposed plan or amendment to the Town Board

for action, pursuant to Town Law Section 272-a. Notice of such a public hearing shall be published in a newspaper of general circulation in the Town at least ten (10) days in advance of the hearing. The proposed comprehensive plan or amendment shall be made available for public review during such period in the office of the Town Clerk and may be made available at any other place, including a public library.

- (3) **Recommendations to Establish Regulations.** The Planning Board may recommend regulations to the Town Board relating to any subject matter over which it has jurisdiction under Article 16 of the Town Law or any other statute, or under any local law or ordinance of the Town of Wayland. Adoption of any such recommendations by the Town Board shall be by local law or ordinance.
- (4) **Amendments.** The Planning Board shall submit its recommendation to the Town Board regarding each proposed amendment of these Regulations.
- (5) **Periodic Review.** The Planning Board shall, at least every five years, review these Regulations in their entirety in order to identify any desirable changes, and shall recommend the same to the Town Board.
- (6) **Referrals From the Town Board.** The Town Board may by resolution provide for the reference of any other matter or class of matters, to the Planning Board before final action is taken on such matters by the Town Board or such other office or officer of the Town of Wayland having final authority over such matter. The Town Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report on such matters, or has had a reasonable time, to be fixed by the Town Board in such resolution, to submit the report.
- (7) **Other Matters.** The Planning Board may make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the Town of Wayland as to the Planning Board seems desirable, providing the total expenditures of the board shall not exceed the appropriation provided for by the Town Board.
- (8) **Rules and Regulations.** The Planning Board may establish rules and procedures governing its operations, provided they are consistent with this Law and the Town Law.
- (9) **Expenditures.** The Planning Board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made for such items for the Planning Board by the Town Board.

6.4.4 General Procedures

- (1) **Meetings.** All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such board may determine. The concurring vote of a majority of the members of the board shall be necessary for the Planning Board to act. Meetings of the Planning Board shall be open to the public to the extent provided in Article Seven of the Public Officers Law.
- (2) **Oaths.** The Chairperson, or in absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
- (3) **Minutes and Records.** The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- (4) **Filing.** Every rule, regulation, every amendment or repeal of rules or regulations, and every order, requirement, decision or determination of the Board shall be filed immediately in the office of the Town Clerk, and shall be a public record.
- (5) **Attendance and Training.** Any Planning Board member who is absent, without excuse, for more than two consecutive meetings of the board shall be subject to removal for failure to attain minimum attendance requirements. All Planning Board members shall complete such training requirements, including seminars, conferences, videotapes, audiotapes, or reading, as may be prescribed by the Town Board.
- (6) **SEQRA.** The Planning Board shall comply with the provisions of SEQRA.

6.5 BOARD OF APPEALS

6.5.1 Appointment

The members of the Board of Appeals shall be appointed by the Town Board, subject to the provisions of this Subsection 6.5.1.

- (1) **Appointment.** The Town Board shall appoint five (5) persons to be members of a Board of Appeals. The original term of appointment of each member shall be specified, and such appointments shall be as follows: one for a term of one (1) year, one for a term of two (2) years, one for a term of three (3) years, one for a term of four (4) years, and one for a term of five (5) years. Thereafter, each appointment shall be for a term of five (5) years, except that an appointment to fill a vacancy shall be for the balance of that term. Members may be appointed to successive terms.

- (2) **Chairperson.** The Town Board shall, by resolution, designate the Chairperson of the Board of Appeals. In the absence of a Chairperson the Planning Board may designate a member to serve as Chairperson.
- (3) **Removal.** The Town Board shall have the power to remove, after public hearing, any member of the Board of Appeals for cause. Any Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.
- (4) **Vacancies.** If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

6.5.2 Powers

The Board of Appeals shall have the following powers:

- (1) **Jurisdiction.** The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Plan Administrator, or the Code Enforcement Officer under this Law. In exercising its appellate powers, such Board of Appeals may, in conformity with the provisions of this Law, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the matter by the Plan Administrator or other administrative officer, and to that end shall have the powers of the officer from whom the appeal is taken. The Board of Appeals shall have no jurisdiction over any order, requirement, decision or determination made by Code Enforcement Officer or other administrative officer relating to the Uniform Code, which shall only be reviewable as provided by the Uniform Code Enforcement Law and the Uniform Code.
- (2) **Administrative Review.** The Board of Appeals shall have the power to hear and decide appeals from and review any order, requirement, decision or determination made by the Plan Administrator, the Code Enforcement Officer, or other administrative officer carrying out or enforcing any provision of this Law, the Flood Damage Prevention Law, and the Building and Mobile Home Permit Law.
- (3) **Use Variances.** The Board of Appeals, on appeal from the decision or determination of the Plan Administrator, shall have the power to grant Use Variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Law, the Flood Damage Prevention Law, and the Building and Mobile Home Permit Law.

- (4) **Area Variances.** The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Plan Administrator, to grant Area Variances from the area or dimensional requirements of this Law, the Flood Damage Prevention Law, and the Building and Mobile Home Permit Law.
- (5) **Rules and Procedures.** The Board may establish its own rules and procedures, provided they are consistent with this Law and the Town Law of the State of New York.
- (6) **Assistance.** The Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance.

6.5.3 General Procedures

- (1) **Meetings.** All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine. All meetings of such Board shall be open to the public to the extent provided in Article Seven of the Public Officers Law.
- (2) **Oaths.** The Chairperson, or in absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
- (3) **Minutes and Records.** The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- (4) **Filing.** Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be filed immediately in the office of the Town Clerk and shall be a public record.
- (5) **Attendance and Training.** Any Board of Appeals member who is absent, without excuse, for more than two consecutive meetings of the board shall be subject to removal for failure to attain minimum attendance requirements. All Board of Appeals members shall complete such training requirements, including seminars, conferences, videotapes, audiotapes, or reading, as may be prescribed by the Town Board.
- (6) **SEQRA.** The Board of Appeals shall comply with the provisions of SEQRA, in accordance with Section 4.8.

6.5.4 Procedures for Appeals

- (1) **Notice of Appeal.** An appeal to the Board of Appeals, including an application for a Variance, or an application for Administrative Review, may be taken by any person, firm or corporation aggrieved, or by any government officer, department, board or bureau of the Town affected by any decision of the Plan Administrator based in whole or in part upon the provisions of this Law. Such appeal shall be taken by filing with the Board of Appeals a notice of appeal specifying the grounds thereof, and furnishing a copy of the notice of appeal to the Planning Board. The Plan Administrator shall forthwith transmit all papers constituting the record upon which the action appealed from was taken to the Board of Appeals.
- (2) **Time of Appeal.** Any appeal, including an application for a Variance or for an administrative review, shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Plan Administrator by filing with such administrative officer and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought.
- (3) **Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Plan Administrator or other administrative officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Plan Administrator and on due cause shown.
- (4) **SEQRA.** Promptly after receiving an application for a Variance, the Board of Appeals shall undertake SEQRA review, in accordance with Section 4.8. After completing SEQRA review, the Board shall complete action on the application or appeal.
- (5) **Referral to Steuben County Planning Board.** As required by General Municipal Law Section 239-m and Section 4.9, a referral shall be made to the Steuben County Planning Board, and a supermajority vote may be required.
- (6) **Hearing.** The Board of Appeals shall fix a reasonable time for the hearing of any appeal, including an application for a Variance or administrative review, which shall be within sixty (60) days from the day the application or appeal is received. At the hearing, any party may appear in person or by agent or by attorney.
- (7) **Notice.** The Board of Appeals shall give public notice of the hearing on an appeal or other matter referred to it, including a hearing upon an application for a Variance or

administrative review, by the publication of a notice of such hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. Further, the Board of Appeals shall, at least five (5) days before such hearing, mail notice thereof to the applicant or appellant. Notice of such a hearing shall also be given by personal delivery or mailing, at least five (5) days prior to the date of the hearing, to all persons, firms or corporations owning or residing on the property which is the subject of the hearing, or the any adjacent property. "Adjacent property" shall include properties abutting at the centerline of a street or right-of-way. All costs of sending or publishing any notices relating to an appeal shall be paid by the applicant, and shall be paid to the Board prior to the hearing of such appeal.

- (8) **Decision.** Upon the hearing, any party may appear in person or by agent or by attorney, and the Board of Appeals shall decide the application for a Variance or administrative review within sixty-two (62) days after the hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant or appellant and the Board. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Plan Administrator, to grant a Use Variance or Area Variance, or to decide in favor of an applicant or appellant.
- (9) **Filing of Decision and Notice.** The decision of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy of such mailed to the applicant. A copy of the appropriate minutes may suffice for this notice. Further, if reference to the Steuben County Planning Board was made, the Board of Appeals shall file a report as required by Section 239-m(6) of the General Municipal Law and Subsection 4.9.4.
- (10) **Recourse.** Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the Town arising under this Law, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such a proceeding must be instituted within thirty (30) days after the filing of a decision of the Board of Appeals in the office of the Town Clerk.
- (11) **Repeat Applications.** Whenever the Board of Appeals, after hearing all the evidence presented upon an application for appeal, under provision of this Law, denies or rejects the same, the Board shall refuse to hold further hearings on the same or substantially similar application or appeal by the same applicant, their successors or assignees, for a period of one (1) year, unless required by the Town Board.

SECTION 7 MEANING OF TERMS

7.1 CUSTOMARY USAGE

Terms used in these Regulations shall have their customarily recognized meanings, except as otherwise stated in this Law.

7.2 INTERPRETING CERTAIN TERMS

The following terms shall be interpreted as stated, unless the context clearly indicates otherwise:

- (1) The word "shall" designates a mandatory and not optional action or condition, while "may" is permissive.
- (2) The word "person" includes an individual, a firm, group of individuals, association, organization, partnership, trust, company, corporation, local government, public authority, or government agency .
- (3) The present tense shall include the future, the singular number shall include the plural and the plural the singular, and the use of one gender all other genders.
- (4) The words "used" or "occupied" include the words "intended," "designed," "constructed," "altered," "converted," "rented," "leased," or "arranged to be used or occupied."

7.3 DEFINITIONS

The following terms are defined as stated.

ACCESSORY USE. Use of land, building, or other structure on the same lot as, and of a nature customarily and clearly incidental and subordinate to, the principal use. (See also **PRINCIPAL USE**.)

AGRICULTURAL PURSUIT or USE. Operation of a farm.

ALTERATIONS. As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities, an enlargement of a building or structure, whether by extending on a side or by increasing in height, the moving from one location or position to another, any alteration by which a structure is adapted to another or different use.

APPELLANT. Owner of property appealing a decision made by the Plan Administrator, Code Enforcement Officer or Planning Board before the Board of Appeals.

APPLICANT. A property owner, or his duly authorize representative, who intends to undertake a development subject to these Regulations.

AREA. One of the areas or districts into which the Town is divided for the purposes of these Regulations.

AQUIFER. The water-saturated subsurface geologic formations which can yield amounts of water to wells or springs and which now or subsequently may be developed for use as a public water supply source.

AUTOMOBILE JUNKYARD. As defined in Local Law No 2 of 1995.

BOARD OF APPEALS. The Board of Appeals of the Town of Wayland, created by this Law, pursuant to Town Law Section 267.

BUFFER AREA. Strips of land covered with grass, vegetation, trees, embankments or berm (excluding any habitable area and intended to provide a neutral land use between other land uses).

BUILDING. Any structure having a roof, used to shelter or enclose persons, animals, or chattel.

BUILDING AND MOBILE HOME PERMIT LAW. Town of Wayland Local Law No. 2 of 1995, providing for regulation of buildings, lots, manufactured homes, mobile homes, and mobile home parks.

CEASE AND DESIST ORDER. An order to stop an illegal action or activity issued by the Plan Administrator or Code Enforcement Officer.

CERTIFICATE OF OCCUPANCY OR COMPLIANCE. A certificate issued by the Code Enforcement Officer stating premises are ready for occupancy or have met applicable requirements under the New York State Building and Fire Prevention Code and this Law.

CLUSTER DEVELOPMENT. A development of residential lots, each containing less than the minimum lot required for the area within which such development occurs, but maintaining the density limitations imposed by the minimum lot area requirement through the provision of open space as part of the subdivision plan.

CODE ENFORCEMENT OFFICER. A person appointed by the Town Board to enforce the Uniform Code, the Building and Mobile Home Permit Law, and any other duties designated.

COMMUNICATIONS TRANSMITTER. A device for transmission of television, radio, cellular telephone, or telephone signals, or other forms of electromagnetic communication, including all associated towers and other structures.

COMPREHENSIVE PLAN. The Comprehensive Plan prepared by the Town of Wayland Planning Board, and adopted by the Wayland Town Board on June 6, 1996.

CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL (COMMERCIAL & INDUSTRIAL). A site used for the deposit of wastes resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock and lumber, road spoils, paving material and tree and brush stumps.

COUNTY. The County of Steuben.

CRITICAL ENVIRONMENTAL AREA (CEA). A specific geographical area designated by a local or state agency, pursuant to SEQRA, which having exceptional or unique environmental characteristics.

DEVELOPMENT. Making use of previously unused or vacant premises or land, or converting premises or land from one use to another, including but not limited to the construction, reconstruction or alteration of buildings and/or structures, excavation, dredging, filling, and/or grading of land. (See also **SITE PREPARATION.**)

DWELLING. A building containing one or more dwelling units.

EAF. An "Environmental Assessment Form," as specified by SEQRA, at 6 N.Y.C.R.R. Section 617.20.

ENVIRONMENTAL IMPACT STATEMENT. A written evaluation prepared by a permit applicant which provides a description of a proposed project or development and a detailed analysis of its environmental effects, as defined in SEQRA.

EXCAVATION. A parcel of land used for the purpose of extracting or mining stone, sand, gravel, top soil, oil, gas or other natural or energy resources for sale as an industrial or commercial commodity by a commercial or industrial enterprise.

FARM. A farm operation, as defined in Section 301 of the Agriculture and Markets Law.

FENCE. A structure of wood, masonry, wire mesh or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property, artificially erected for the purpose of assuring privacy or protection.

FERTILIZER. Any commercially produced mixture generally containing phosphorus, nitrogen, and potassium, which is applied to the ground to increase nutrients to plants.

FLOOD DAMAGE PREVENTION LAW. Town of Wayland Local Law No. 1 of 1991, providing for Flood Damage Prevention.

GARAGE, PRIVATE. An accessory building for the storage of one or more motor vehicles.

GROUNDWATER. Any water beneath the land surface in the saturated zone that is under atmospheric or artisan pressure, and that enters wells and springs.

HAZARDOUS WASTE. Any hazardous waste, as defined by 6 N.Y.C.R.R. Parts 370 through 375.

HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY. Any hazardous waste treatment, storage or disposal facility, as defined by 6 N.Y.C.R.R. Parts 370 through 375.

JUNK. Defined in the Junk Law, Local Law No. 2 of 1995.

JUNK LAW. Town of Wayland Local Law No. 2 of 1995, providing for regulation of Junk and Junkyards.

JUNKYARD. Defined in the Junk Law, Local Law No.2 of 1995.

LANDFILL. Any area used for dumping other than for personal use by the property owner.

LANDLORD. Person who collects money for use of a Rental Unit.

LOCAL LAW. A local law enacted by the Town of Wayland, pursuant to the Municipal Home Rule Local Law, or any such law that may be enacted in the future.

LOT. Defined in the Building and Mobile Home Permit Law, Local Law No. 2 of 1995.

MOBILE HOME. Defined in the Building and Mobile Home Permit Law, Local Law No. 2 of 1995.

MOBILE HOME PARK. Defined in the Building and Mobile Home Permit Law, Local Law No. 2 of 1995.

NON-CONFORMING BUILDING, STRUCTURE, LOT or USE. A building, other structure, lot, use, or characteristic of a use, lawfully existing on the effective date of this Law (or any applicable amendment), but not in conformity with one or more of the requirements in this Law.

PLAN ADMINISTRATOR. Person appointed by the Town Board to enforce this Law, and any other duties designated.

PLANNING BOARD. The Planning Board of the Town of Wayland, originally created by Town of Wayland Local Law No. 1 of 1996, pursuant to Town Law Section 271.

PRINCIPAL USE. The primary or dominant use of premises. (See also **ACCESSORY USE.**)

PUBLIC WATER SUPPLY. A source of drinking water for five (5) or more lots, and/or any water supply regulated by the New York State Department of Health as a public water supply, pursuant to 10 N.Y.C.R.R. Subpart 5-1.1.

RENTAL UNIT. A house, apartment, mobile home, motel room, or any other dwelling let out for monetary compensation.

ROAD. A way for vehicular use by the general public that is the principal means of access to abutting lots; may be designated as a road, highway, street, or lane, or by another name.

The following are related terms:

PRIVATE ROAD. A road owned and maintained by the owners of the abutting lots individually, or an association of such owners, or a single lot owner.

PUBLIC ROAD. A road maintained by the Town, County, State, or other government body, including a town highway, county road, or state highway.

ROAD RIGHT-OF-WAY LINE. Line marking the legal limit of the road rights of the general public, marking an existing or proposed right-of-way. (See also **LOT FRONTAGE.**)

SEQRA. The State Environmental Quality Review Act, as set forth in New York State Environmental Conservation Law Article 8, and its implementing regulations, set forth at 6 N.Y.C.R.R. Part 617.

SEWAGE. Any liquid or solid waste matter from a domestic, commercial, private or industrial establishment which is normally carried off in sewers or waste pipes, as regulated by New York State Health Department.

SEWAGE DISPOSAL SYSTEM. Any system used for disposing of sewage, including treatment works as regulated by New York State Health Department.

SITE PREPARATION. Altering premises or land so as to accommodate development; includes cutting and planting trees and other plants; grubbing, grading, filling, excavating, paving; and

constructing, altering and demolishing buildings and other structures. Also includes septic system and development of water supply, if included in the Site Plan. (See also **DEVELOPMENT**.)

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. Sludge does not include the treatment effluent from a waste water treatment plant.

SOLID WASTE. Any solid waste, as defined by 6 N.Y.C.R.R. Part 360.

SOLID WASTE LANDFILL, TRANSFER STATION OR MANAGEMENT FACILITY. Any solid waste landfill, transfer station or management facility, as defined by 6 N.Y.C.R.R. Part 360.

SPECIAL PERMIT. The temporary, final and new operation permits issued by the Town of Wayland, or its officers or duly appointed representatives pursuant to compliance with these Regulations.

SPECIAL USE MOTOR VEHICLE. Defined in the Junk Law, Local Law No. 2 of 1995.

SPECIFIED ANATOMICAL AREAS. Genitals, the breast below the top of the areola, pubic areas, or buttocks.

SPECIFIED SEXUAL ACTIVITIES. Any of the following: (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (b) sex acts, actual or simulated, including sexual intercourse and oral copulation; (c) masturbation, actual or simulated; and (d) excretory functions as part of or in connection with any of the activities specified in (a), (b) or (c).

STATE. The State of New York.

STORAGE OF TOXIC SUBSTANCES. The storage of virgin or waste chemicals substances, including petroleum products above or below the surface of the ground.

STORMWATER RUNOFF. The natural and existing flow of overland runoff and excess water.

STRUCTURE. Anything constructed or erected and designed to be used at a fixed location on the ground, or attached to something having a fixed location on the ground; including buildings, commercial gas or liquid storage tanks, towers, mobile homes, skid-mounted accessory buildings, storage buildings, anything permanently placed on a foundation, walls, fences, billboards and poster panels.

TENANT. Person who pays for the use of a Rental Unit.

TOWN. The Town of Wayland.

TOWN BOARD. The governing body of the Town of Wayland.

TOXIC SUBSTANCE. Any toxic substance, as defined by Subdivision 2 of Section 4801 of the New York State Public Health Law.

TREATMENT WORKS. Any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, construction drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing, or disposing of sewage.

UNIFORM CODE. The New York State Uniform Fire Prevention and Building Code.

UNIFORM CODE ENFORCEMENT LAW. Town of Wayland Local Law No. 1 of 1985, providing for Administration and Enforcement of the Uniform Code.

UTILITY, PUBLIC. An industry regulated by the New York State Public Service Commission, the Federal Communications Commission, or other government organization, as a public service, including gas, electric, telephone, cellular telephone, cable television, water, and sewer companies and authorities.

UTILITY FACILITIES. Facilities, including electric substations, gas area governor stations, telephone exchanges or other installations, storage facilities, repair shops, power or gas generation stations or plants, communications transmitters, public water supplies, treatment works, and utility transmission lines, for services which are operated by a public utility for purposes of supplying utility services, but not including business offices.

UTILITY DISTRIBUTION LINES. Facilities for the distribution of services by public utilities, including telephone, electric and cable television transmission lines, and water and sewer pipes, necessary for providing service to structures within the Town.

VARIANCE, USE. The authorization by the Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by this Law.

VARIANCE, AREA. The authorization by the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or topographical requirements of this Law.

VIOLATION. The failure to comply with or conform to the provisions of these Regulations.

WELL. An underground structure used to supply groundwater.

WELL LOG. A diary of well drilling and testing.

YARD. Defined in Local Law No. 4 of 1995, the Building and Mobile Home Permit Law..

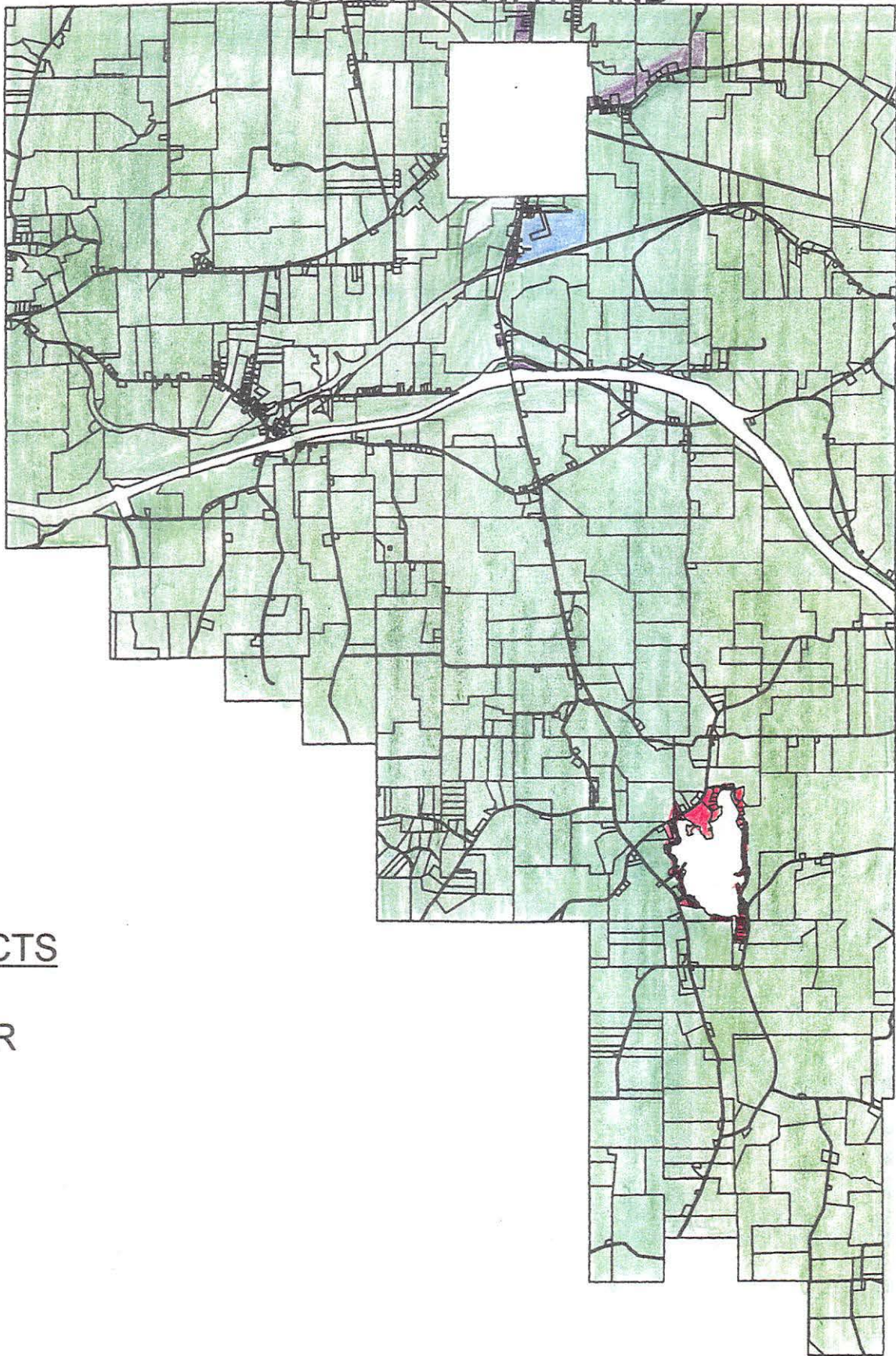
**SECTION 8
SEVERABILITY**

If any clause, sentence, paragraph, section or article of this Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Law, but shall be confined in its operation to the clause, sentence, paragraph, section or article directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 9
EFFECTIVE DATE**

This Law shall be effective upon filing with the Secretary of State and the Town Clerk:

TOWN OF WAYLAND



DISTRICTS

 AG-R

 AQ

 C

 I

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1997 of the ~~(County)~~ ~~(City)~~ ~~(Town)~~ ~~(Village)~~ of Wayland was duly passed by the TOWN BOARD on August 18 1997, in accordance with applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ on _____ 19____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____ in accordance with applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the ~~(County)~~ ~~(City)~~ ~~(Town)~~ ~~(Village)~~ of _____ was duly passed by the _____ on _____ 19____ and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 19____ in accordance with applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the ~~(County)~~ ~~(City)~~ ~~(Town)~~ ~~(Village)~~ of _____ was duly passed by the _____ on _____ 19____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to a permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____ in accordance with applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws and ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____; State of New York, having been submitted to the electors at the General Election of November _____ 19____ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 1____, above.

Beverly J. Robinson
Beverly Robinson
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 9-8-1997

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____ STEUBEN _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

James H. Burns
Signature JAMES H. BURNS

ATTORNEY FOR THE TOWN

Title

County

City

Town

of Wayland

Village

Date: September 3, 1997

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
 City of Wayland
 Town
 Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
AUG 14 2008

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 20 08

A local law amending Local Law No. 1 of the year 1998 referred to as the "Town of Wayland"
(Insert Title)
Protection, Conservation, and Development Law.

Be it enacted by the Town Board of the
(Name of Legislative Body)

- County
 City of Wayland as follows:
 Town
 Village

(Delete this line of text and enter text of local law here)

Local Law No. 1 of 1998 is hereby amended as follows:

- Section 2.1.1 (1) is hereby amended to read as follows: "The Town of Wayland is hereby divided into seven areas."
- Section 2.1.1(2) is hereby amended to include subparagraph "(g)" which shall read as follows: "Agricultural-Commercial (Ag-C) area. To provide for future development of non-farm commercial use."
- The schedules in Sections 2.2.2 and 2.2.3 are hereby deleted and replaced in their entirety by the attached schedules:
- Section 2.2.3 is hereby amended to delete "Salvage Operations and Junk Yards" as a principal use under Industrial uses.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

5. **Section 6.4.2 (2)** is hereby amended to read as follows: "At least two of the members of the Planning Board may be an agricultural member, as provided by Town Law Section 271 (11). Each such agricultural member must derive ten thousand dollars or more annual income from agricultural pursuits in the Town of Wayland."

6. **Section 4.2.1** is hereby amended to read as follows:

(1) Except as specifically otherwise provided by this Law, no building, other structure or land that is erected or altered in its use, or building, other structure, or land shall be used or occupied, until the Code Enforcement Officer shall have issued a Certificate of Occupancy or Certificate of Compliance, in which he states that such land, building, or structure and the proposed occupancy or use, are found to be in conformity with the provisions of this Law, and that any construction or other work has been completed in conformity with, if applicable, the Uniform Code, the Flood Damage Prevention Law, the Building and Mobile Home Permit Law, and the other laws of the Town.

(2) No change shall be made in the occupancy of an existing building or structure unless a certificate of occupancy shall have been issued by a Code Enforcement Official. A Code Enforcement Official shall have the right to request a building permit application be submitted, outlining said change in occupancy, to verify that the requested change is in compliance with the New York State Uniform Fire Prevention and Building Code and other applicable state and local laws, rules and regulations.

7. The Area Plan Map as adopted pursuant to Section 2.1.2 and amended by Local Law No. 3 of 1998 is further amended to designate certain areas in the Town of Wayland as an Agricultural-Commercial (Ag-C) Area, which map as amended shall be duly certified and maintained on file by the Town Clerk.

8. **Section 4.3.2(3)** is hereby deleted in its entirety.

9. **Section 6.4.3(1)** is amended to read as follows: The Planning Board shall consider and act upon application for Special Permits, as provided in Section 4.3.

10. This Local Law shall take effect upon filing with the Secretary of State.

2.2.2 GENERAL USES

PRINCIPAL USE	AG-R	AQ	C	I	CEA	AG-C
Adult Book Store	N	N	S	N	N	N
Adult Entertainment Establishment	N	N	S	N	N	N
Commercial Towers	P	N	P	P	S	P
Communications Towers	S	N	S	S	S	S
Construction & Demolition Debris Landfill	S	N	N	S	S	N
Essential Services	S	S	S	S	S	S
Hazardous Waste or radioactive Material Treatment, Storage or Disposal Facility	N	N	N	N	N	N
Municipal Park, Playground	S	S	S	S	S	S
Public Water Supplies, including Public Wells and surface Water Intakes	S	S	S	S	S	S
Solid Waste Landfill, Transfer Station or Disposal Facility, or other Solid Waste Management Facility	N	N	N	S	N	N
Treatment Works	N	N	N	S	S	N
Utility Distribution Lines	S	S	S	S	S	S
Utility Facilities	S	S	S	S	S	S

2.2.3 INDUSTRIAL USES

PRINCIPAL USE	AG-R	AQ	C	I	CEA	AG-C
Excavating & Mining Operations	S	N	S	S	S	N
Manufacturing, Fabrication, Assembly	S	N	S	S	S	S
Salvage Operations & Junk Yards	S	N	S	S	S	S
Oil & Gas Wells	S	N	S	S	S	S
Warehouse Storage	S	N	S	S	S	S

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 08 of the ~~(County)(City)(Town)(Village)~~ of Wayland was duly passed by the Wayland Town Board on 8/11/2008, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Beverly Robinson - Town Clerk
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body Beverly Robinson

(Seal)

Date: 8-11-2008

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUDBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister
Signature Patrick F. McAllister
Wayland Town Attorney
Title

~~County~~
~~City~~ of Wayland
Town
~~Village~~

Date: 8-11-2008

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Wayland

FILED
STATE RECORDS

JUN 28 2010

Local Law No. 1 of the year 2010

DEPARTMENT OF STATE

A local law AMENDING LOCAL LAW NO. 1 of 1998 - TOWN OF WAYLAND PROTECTION,
(Insert Title)
CONSERVATION, AND DEVELOPMENT LAW

Be it enacted by the WAYLAND TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Wayland

as follows:

Section 1. Local Law No. 1 of 1998 – Town of Wayland Protection, Conservation, and Development Law is hereby amended to change a part of Tax Map No. 015.09-01-004.110 from an Agricultural/Residential Area to a Commercial Area and part of Tax Map No. 015.00-01-078.000 from an Industrial Area to a Commercial Area with the combined total Area to be changed to a Commercial Area being set forth and delineated upon a map attached hereto and made a part hereof.

Section 2. Should any section or provision of this Local Law be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof, other than the part so decided to be unconstitutional or valid.

Section 3. This Local Law shall take effect immediately upon adoption and filing as required by the Laws of the State of New York.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2010 of the ~~(County)(City)(Town)(Village)~~ of Wayland was duly passed by the WAYLAND TOWN BOARD on June 14, 2010, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Beverly Robinson
Clerk of the county legislative body, City (Town) or Village Clerk or officer designated by local legislative body Beverly Robinson
Wayland Town Clerk

Date: 6/14/2010

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

John F. Leyden
Signature John F. Leyden
Acting Wayland Town Attorney
Title

~~XXXX~~
County
~~City~~ of Wayland
Town
~~Village~~

Date: 6/17/10

Legal Description for property at corner of Gunlocke Park and US Route 15/NYS Route 21

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Wayland, County of Steuben and State of New York and being in Township No. 6, Range VI of the Phelps and Gorham Purchase, being more particularly bounded and described as follows:

BEGINNING at a point marking the intersection of the east line of U.S. Route 15/NYS Route 21 with the south line of Gunlocke Park Road, and which point also marks the northwest corner of this parcel described; thence

1) S 89°-07'-11" E along the south line of Gunlocke Park Road, a distance of 194.99 feet to an iron pin; thence

2) S 09°-07'-49" W along the west line of lands now or formerly of Donald E. and Lucille Ellis (L757 D22) and continuing through lands of the Grantor herein, a total distance of 306.00 feet to an iron pin; thence

3) N 89°-07'-11" W through lands of the Grantor, a distance of 194.99 feet to a point marked by an iron pin situate on the east line of U.S. Route 15/NYS Route 21; thence

4) N 09°-07'-49" E along the east line of U.S. Route 15/NYS Route 21, a distance of 306.00 feet to the point and place of beginning.

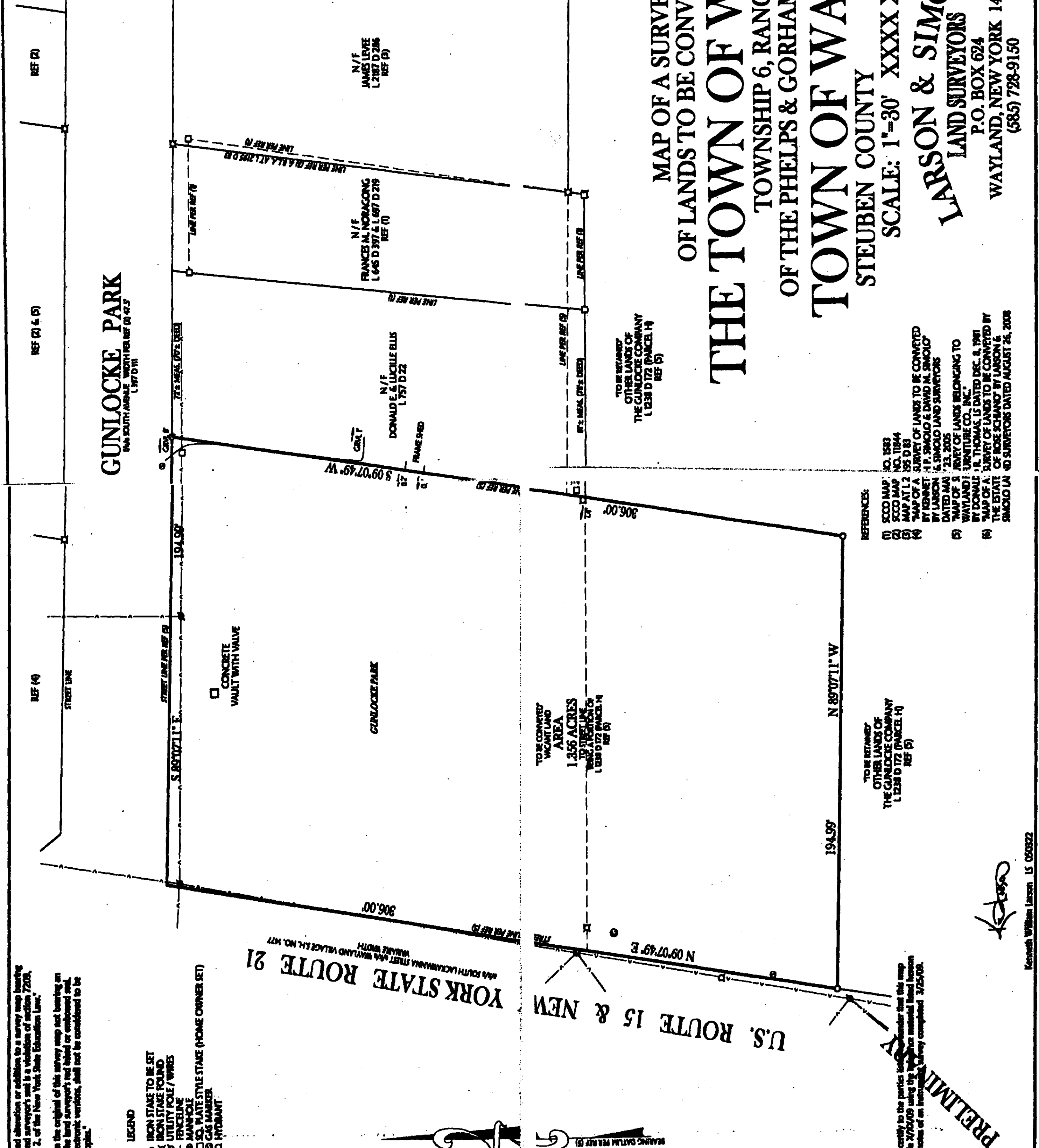
Part of Tax Map No.: 015.09-01-004.110

Part of Tax Map No.: 015.00-01-078.000

Conveying 1.356 acres

Address: Gunlocke Park Road, Wayland, New York 14572

NOTE: NO ABSTRACT OF TITLE WAS PROVIDED.



MAP OF A SURVEY
 OF LANDS TO BE CONVEYED TO
THE TOWN OF WAYLAND
 TOWNSHIP 6, RANGE VI
 OF THE PHELPS & GORHAM PURCHASE
TOWN OF WAYLAND
 STEUBEN COUNTY NEW YORK
 SCALE: 1"=30' XXXX XX, 2009

LARSON & SIMOLO
 LAND SURVEYORS
 P.O. BOX 624
 WAYLAND, NEW YORK 14572
 (585) 728-9150

- REFERENCES:
- (1) SCCO MAP NO. 1583
 - (2) SCCO MAP NO. 11844
 - (3) MAP AT 1:2 155 D 83
 - (4) MAP OF A SURVEY OF LANDS TO BE CONVEYED BY KENNETH J.P. SIMOLO & DAVID M. SIMOLO BY LARSON & SIMOLO LAND SURVEYORS DATED MAY 23, 2005
 - (5) MAP OF A SURVEY OF LANDS BELONGING TO WAYLAND FURNITURE CO., INC. BY DONALD J.L. THOMAS IS DATED DEC. 8, 1981
 - (6) MAP OF A SURVEY OF LANDS TO BE CONVEYED BY THE ESTATE OF ROSE SCHMIDT BY LARSON & SIMOLO LAND SURVEYORS DATED AUGUST 26, 2008

Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7203, sub-division 2, of the New York State Education Law.

Copies from the original of this survey map not bearing an original of the land surveyor's seal and not bearing an original of the land surveyor's seal and not bearing an original of the land surveyor's seal and not bearing an original of the land surveyor's seal, including electronic versions, shall not be considered to be true valid copies.

- LEGEND
- IRON STAKE TO BE SET
 - ⊗ IRON STAKE FOUND
 - ⊕ UTILITY POLE / WIRES
 - FENCELINE
 - MANHOLE
 - SO. PLATE STYLE STAKE (HOME OWNER SET)
 - ⊗ GAS MARKER
 - HYDRANT

YORK STATE ROUTE 21
 WAYLAND VILAGE L.L. NO. 177
 WITH SOUTH LACKAWANNA STREET AND WAYLAND VILAGE L.L. NO. 177

U.S. ROUTE 15 & NEW YORK STATE ROUTE 21

I hereby certify to the parties that I have read and understand that this map was made 7/25/09 using the best available material and that the notes of an independent survey completed 7/25/09.

[Signature]

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
MAR 20 1998

Alexander F. Bradner
Secretary of State

County
City of Wayland
Town
Village

Local Law No. 1 of the year 1998

A local law to reenact and ratify Local Law No. 3 of 1997, the Town of Wayland Protection, Conservation and Development Law, which protects each individual citizen while promoting health, safety and welfare of the Town of Wayland by limiting and restricting specific areas, and enacting regulations in those the areas as to land use, buildings, construction, and structures, and providing penalties for violations of such law.
.....
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City
Town of Wayland as follows:
Village

Section 1. Local Law No. 3 of 1997, the Town of Wayland Protection, Conservation and Development Law, a copy of which is attached hereto and incorporated as part of the text of this law, is reenacted and ratified,

Section 2. Should any section or provision of this Local Law be decided by the Courts to be unconstitutional or invalid, such decision shall not effect the validity of the Law as a whole or any part thereof, other than the part so decided to be unconstitutional or valid.

Section 3. This Local Law shall take effect immediately upon adoption and filing as required by the Laws of the State of New York.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1998 of the (County) (City) (Town) (Village) of Wayland was duly passed by the TOWN BOARD on March 16 1998, in accordance with applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ on _____ 19____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____ in accordance with applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 19____ and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 19____ in accordance with applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to a permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____ in accordance with applicable provisions of law.~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws and ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 19____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____ pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ____1____, above.

Beverly L. Robinson
[CLERK'S NAME]
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: March 16, 1998

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

James H. Burns
Signature JAMES H. BURNS

ATTORNEY FOR THE TOWN
Title

County
City
Town of Wayland
Village

Date: March 16, 1998

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

Town of Wayland

OCT 25 2012

Local Law No. 2 of the year 2012

MISCELLANEOUS
& STATE RECORDS

A local law entitled "Town of Wayland Road Preservation Law"

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

Section 1. Title.

This local law may be cited as the "Town of Wayland Road Preservation Law".

Section 2. Authority for this Local Law.

The Town Board of the Town of Wayland enacts this local law under the authority granted by Section 10 of the New York State Municipal Home Rule Law, New York State Constitution Article IX § 2(c)6, Town Law, subsection 1(ii)(a)(6), subdivision 2 of section 23-0303 of the Environmental Conservation Law, Highway Law Section 140, Highway Law section 320, Town Law section 130, and Vehicle and Traffic law section 1660.

Section 3. Purpose.

The purpose of this local law is to maintain the safety and general welfare of Town residents and others using Town highways by regulating high impact commercial activities that have the potential to adversely impact roads and property. The intent is to protect the Town roads and property from damage from endeavors that typically require high frequency use of heavy equipment with heavy loads. It is the intent of this law to insure that the Town's roads are not damaged or harmed to the overall detriment of the Town by a few individual users who utilize the roads in a manner that causes extraordinary deterioration to the roads.

Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

Nothing contained in this Chapter shall be deemed to unlawfully interfere with Interstate Commerce.

Section 4. Definitions.

The following terms shall have the following meaning in this Chapter.

Blanket Permit: A permit that covers more than one vehicle or truck; which would be subject to the permitting process. Vehicles or trucks that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location shall be considered related vehicles and should be subject of a blanket permit.

Bond: A commercial bond to ensure that the condition of the town roads and/or property impacted by Highway Frequency Truck Traffic is left in a good or better condition at the completion of the project as they were at the start of the project.

Code Enforcement Officer: The building and code inspector of the Town, Town code enforcement officer, or such other Town official who exercises similar building, code and enforcement powers.

Escrow: Money put into the custody of a third party for delivery to a grantee only after the fulfillment of the conditions specified.

High Frequency Truck Traffic: A vehicle or related vehicles that have 3 or more axles, including axles on trailers and/or towed vehicles, which traverses/travels over 100 miles or more of Town roads or other town property during any 5 consecutive days. When calculating whether a vehicle or related vehicles meets the definition of High Frequency Traffic, 100 miles and 5 consecutive work days shall be used for both individual permits and Blanket Permits.

Highway Superintendent: The Highway Superintendent of the Town.

Local Delivery: Delivery or pickup of merchandise or other property along the Town Roads by High Frequency Truck Traffic.

Other Town Property: Any real property (including any improvements therein, thereon or thereunder) or personal property owned by, or leased to, the Town.

Motor vehicles: Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (b) vehicles

which run only upon rails or tracks,

(c) snowmobiles, (d) all terrain vehicles, (e) fire and police vehicles other than ambulances,

(f) farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

Permit: Approval of an application for a Road Preservation Permit Application. This includes Blanket permits, which are preferred, where there are multiple related vehicles.

Permitee: Shall mean the holder of a "Road Preservation Vehicle Permit" issued pursuant to this Local Law. Under a Blanket Permit, this shall include the holder's contractors, sub contractors, employees and agents.

Related Vehicles: More than one vehicle; including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location. When calculating if related vehicles meet the definition of High Frequency Truck Traffic, the number of axles shall be counted on each vehicle separately; however, the number of miles shall be the combination of all vehicles with 3 or more axles.

Road Preservation Local Law Worksheet (*Appendix A*): Worksheet to be completed by potential Permitee, summarizing the project, project location, start and completion dates, expected maximum gross vehicle weight used for the project, proposed truck routes, and any other items that the Board Town deems necessary.

Town: Town of Wayland, a municipality located in the County of Steuben, State of New York.

Town Board: The Town Board of the Town of Wayland.

Town Clerk: The duly elected Town Clerk of the Town of Wayland.

Town Road: Any Town highway, road, street, avenue, boulevard, parkway, shoulder guard rail, concourse, driveway, easement, right of way, bridge, culvert, sluice pipe, ditch, dock, tunnel, sidewalk, or any utilities or improvements therein, thereon or thereunder.

Truck: Every motor vehicle designed, used, or maintained primarily for the transportation of property.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used

exclusively upon stationary rails or tracks.

Section 5. Permanent Weight Restriction and Truck Route.

A. All trucks, tractors commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, tractor trailer-semitrailer combinations, or motor vehicles that are considered High Frequency Truck Traffic are excluded from all Town Roads in the Town of Wayland, except that High Frequency Truck Traffic operated in the Town of Wayland shall be restricted (except as expressly hereinafter permitted) to the following designated “truck route system”:

1. The designated “Town of Wayland Truck Route” shall be limited to consist of routes on, over and along any and all State and County owned/maintained roadways lying within the boundaries of the Town of Wayland. No High Frequency Truck Traffic shall use Town Highways or roadways, except as hereinafter permitted.

B. The initial determination that the standards of High Frequency Truck Traffic have been met shall be made by the Town Board. However, if during the application process a Permittee alleges that they do not meet the threshold of High Frequency Truck Traffic, they may present such evidence to the Town Board for a review and determination.

C. There shall be signs installed at all major highways entering Town, indicating that High Frequency Truck Traffic must use the truck route system or local delivery by permit.

Section 6. Requirement that a Vehicle Permit be Obtained by High Frequency Truck Traffic.

Local Delivery by High Frequency Truck Traffic is allowed but only after compliance with this local law and after obtaining a Permit, Blanket Permit, or after entering into a road use agreement (as provided for herein).

When there is High Frequency Truck Traffic that involves more than one vehicle; including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location; the Permittee must apply for a blanket permit or (as permitted elsewhere) a road use agreement. Individual permits will not be allowed in such circumstances.

The Permittee for a blanket permit or road use agreement shall be an individual or entity that controls or directs the specific project, site or work location and that application must include all vehicles owned, used, rented, leased, hired (including independent contractors) or in any way utilized.

Section 7. Permit Issuing Authority and Enforcement Authority.

A. The Town Board is hereby authorized to promulgate an application form requesting a Permit and the Permit to be issued upon review and approval of said application.

B. The Town Clerk is hereby designated as the authority to receive applications for permits to operate or move a vehicle or a combination of vehicles, the weights and frequency of which exceed the limitations provided herein. The Town Clerk must submit a copy of the applications and any approved permit to the Town Code Enforcement Officer and the Highway Superintendent.

C. The Town Board is hereby designed as the authority to approve applications for a Permit to operate, transport, or move High Frequency Truck Traffic, as defined above, on, over or across a designated Town Road or other Town property.

D. This chapter shall be administered and jointly enforced by the Town enforcement officers and the police agencies of Steuben County and NYS or officials authorized by the Town Board of the Town of Wayland. Violations may be reported by verbal or written complaint by at least one person, including the enforcement officer.

1) Town enforcement officers and the police agencies of Steuben County and NYS and any other officials authorized by the Town Board of the Town of Wayland are authorized to enforce any violation of the Chapter.

Section 8. Application and Permit Form.

At time of initial application and continuing thereafter, the person requesting the permit shall provide the following:

- 1) a proposed road map that the High Frequency Truck Traffic will travel on,
- 2) a video or photographic documentation demonstrating the condition of the proposed road and/or described in the permit,
- 3) Copies of valid New York State Vehicle Registrations for each vehicle,
- 4) Copies of valid New York State Special Hauling Permits, if any, for each vehicle,
- 5) Proof of Insurance as required herein,
- 6) Permit fee of \$25.00 per permit and \$100.00 per blanket permit,

7) Any other documents, maps, sketches, and plans, which the Town Board may require and

8) All other requirements of this Chapter, including an escrow account, bond, etc., must be satisfied prior to approval of any permit application.

Information shall be provided with the application on each individual vehicle owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location.

Whenever possible, the permittee must request a blanket Permit covering all of the vehicles, which such permittee plans to use on town roads or highways. If such a blanket Permit is thereafter issued all of the vehicles specifically listed on such Permit shall be deemed to be covered by such Permit.

Additionally, after issuance of the Permit, the Applicant must provide updated information including but not limited to changes in: truck routes, project, site or work location, etc. if in the opinion of the Town Board, the changes are significant, then the Permittee must file a new Permit application; including new relevant fees, bonds, escrows, insurances, etc.

Every permit or blank permit shall be carried on the vehicle to which it refers and shall be open to inspection of any authorized enforcement officer, peace officer or police agencies of Steuben County or other officials authorized by the Town Board.

After issuance of the Permit, the Permittee will arrange for video or photographic documentation of condition of roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic on monthly basis and within two weeks after the conclusion of the permitted work. All video or photographic documentation will be submitted to the Town Board within one week of recording. Failure to submit the required documentation will result in immediate revocation of the Work Permit.

Section 9. Alternative to Permit: Road Use Agreement.

A Permittee, who has more than one vehicle, which qualifies as High Frequency Truck Traffic, may request that the Town enter into a town-wide road maintenance agreement in lieu of separate permits for each vehicle(s) or even a blanket permit. Said road maintenance agreement shall conform to the minimum requirements of this local law, would be executed by the Town and the Permittee and shall include such additional terms as are reasonably required by the Town, including but not limited to insurance, maintenance bond, truck traffic routes, traffic schedules, inspections and road surveys. All of the vehicles specifically listed in such agreement, including those owned by the holder, its agents and sub contractors, shall be deemed to be covered by such agreement, and upon execution of the agreement a blanket permit shall be issued.

Section 10. Damage to Town Roads.

With the exception of normal wear and tear, the Permittee is responsible for all damages, injuries discharges or spills that occur on or to the Town Roads, other Town property, ditches, curbs, sidewalks or other improvements and to public utilities of the Town in the roadway.

It is the Permittee's responsibility to obtain the permission of any railroad companies operating within the Town to schedule traffic across any railroad crossings located on Town Roads as to avoid or minimize delays to rail traffic, and to maintain and repair said railroad crossings, as necessary.

Upon due notice being given to the Permittee and at the Town's option, the Town may allow the Permittee to repair all damages or the Town may arrange the necessary repairs and charge the Permittee for all labor and materials at the prevailing rates. The highway shall be restored and the integrity of the repair maintained for a period of one year from the date of any repairs. Particular attention is called to the necessity of thoroughly compacting the back fill, which will be required by the Town. If the Town requests the Permittee to repair the damages, such repair will be done to the specifications, time line and any and all other requirements of the Town.

Section 11. Insurance

A. The Permittee shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a non-contributory basis with the minimum limits of coverage for bodily injury equal to \$1,000,000.00 for each person injured, \$2,000,000.00 for aggregate bodily injury resulting from each occurrence, and \$500,000.00 property damage.

B. Said insurance shall be maintained throughout the term of the permit, at the cost and expense of the Permittee, and the aforementioned certificates shall provide for thirty (30) days' notice to the Town prior to cancellation of coverage.

C. All persons performing work under this permit and whom are required to be covered by Workmen's Compensation Insurance and Disability Benefits insurance under New York law; shall be covered at the cost and expense of the Permittee.

Section 12. Maintenance Bond and Letter of Credit.

The Permittee shall present to the Town a maintenance bond in the amount of \$250,000.00 and a bank letter of credit in the amount of \$10,000.00 in favor of the Town guaranteeing compliance with the provisions of the permit. At such time, that said letter of credit and/or maintenance bond is expended, the Permittee shall replace the same with five (5) days written notice from the Town, failing which the permit shall be subject to revocation.

Such Maintenance Bond shall be maintained for a least a period of one year after repairs have been approved by the Town. The highway shall be restored and the integrity of the repair maintained for a period of one year from the date of any repairs.

Section 13. Indemnity and Save Harmless.

The Permittee will be required to agree to fully indemnify, defend, save and hold harmless the Town of Wayland and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any type and all activity to be performed by Permittee pursuant to this permit.

By accepting the Permit, the Permittee shall be deemed to have agreed to all of the defense, indemnity and save harmless provisions of this Local Law and all other provisions of this Local Law.

Section 14. Extent of Permittee's Liability and Obligations Hereunder.

The Permittee's obligations hereunder to repair and restore, the Permittee's obligations hereunder to defend, indemnify and hold harmless, and the Permittee's other liability and obligations hereunder shall not be limited by the limits of any applicable insurance coverage, highway permit bond, maintenance bond, letter of credit, comparable bond, escrow account, cash deposit, or rights of the Town under any New York State or Federal law, rule, regulation or statute, including subdivision 3 of section 23-0303 of the Environmental Conservation law of the State of New York. The Permittee's obligations hereunder to repair and restore, the Permittee's obligation hereunder to defend, indemnify, and hold harmless, and the Permittee's other liability and obligations hereunder shall survive any termination or revocation of the Permit.

Section 15. Stop Work Orders.

The Highway Superintendent and the Building and Code Inspector shall each have the right and authority to issue stop work orders to those operating in violation of the terms of this permit, or contrary to the permittee's application or conditions upon which its permit was issued or in violation of this Local Law, in violation of applicable provisions of law.

Section 16. Revocation of Permit.

Upon the violation of any provisions of this permit, or violation of any provisions of this Local Law, or violation of applicable provisions of law, or violations of any conditions, the Town Board may suspend any such permit issued hereunder for no more than thirty (30) days, and following a public hearing at which the Permittee shall have the right to appear and be heard, the Town Board may permanently revoke any permit on written notice to the Permittee.

Section 17. Special Conditions and Exclusions.

A. The permit shall not be assigned or transferred without the written consent of the Town Board.

B. The Town Clerk shall be given three business days written notice by said Permittee of the date when it intends to begin the activity authorized by the permit, and prompt notice of its completion.

C. The permit shall remain valid only for so long as the Permittee continues to hold a valid New York State hauling Permit or Divisible Load Permit, where necessary.

D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing an R-Posted bridge or culvert.

E. Due to the vital nature of the following vehicles in providing public services deemed necessary in preventing emergencies or in safeguarding the public health, safety and welfare, and since overweight vehicles may be required to perform these services, the following vehicles are granted exemptions from the permitting process of this local law:

(1) Maintenance, repair and service vehicles owned and operated by municipalities or fire companies on official municipal or fire fighting business.

(2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business.

F. Valid insurance, maintenance bonds and letters of credit shall be maintained as required by herein.

G. Traffic will be maintained in accordance with the Uniform Traffic Control Manual.

H. If any of these conditions are not met, the permit is automatically voided and all work shall cease.

Section 18. Violation of Local Law; Penalties Therefore.

A. Any person who violates any provision of this chapter shall be deemed guilty of a Misdemeanor and, upon conviction thereof, shall be subject to penalties in a fine of not less than \$1,000.00 and imprisonment up to one year.

B. In addition to those penalties prescribed herein, any person who violates any provision of this chapter shall be liable for a civil penalty in an amount not to exceed \$5,000.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.

C. If the violation is of a continuing nature, each twenty-four hour period during which it occurs shall constitute an additional, separate and distinct offense.

D. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce any provision of this chapter. In particular, but not by way of limitation, where there is a violation of this chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing abatement of the condition in violation of such provisions.

E. The Town may seek restitution for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

F. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this chapter. Any remedy specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

Section 19. Reservation of Town's rights.

The Town hereby retains all rights it has now or may have hereafter, pursuant to the provisions of subdivision 3 of section 23-0303 of the Environmental Conservation Law, to request funds (by filing a request therefore with the New York State Commissioner of Environmental Conservation) from the oil and gas fund to reimburse or compensate the Town for costs related to repairing damages to any Town Road, or other Town property.

The Town hereby retains and reserves all rights it has now or may have hereafter, pursuant to Navigation Law Article 12 to make a claim against the New York Environmental Protection and Spill Compensation Fund to reimburse or compensate the Town for cost related to repairing damages to any Town Road or other Town property.

The Town hereby retains and reserves all other rights it has now or may hereafter, to seek reimbursement or compensation for costs related to repairing damages to any Town Road or other Town property.

Section 20. Escrow.

The Board may hire any consultant and/or expert necessary to assist the Town Board in reviewing and evaluating the application.

1. The Town required an applicant to deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town Board in connection with the review of any application. The initial deposit shall be the sum of \$5,000.00. However, the Town Board may, in its discretion reduce said fee upon good cause shown. These funds shall accompany the filing of an application and the Town shall maintain a separate escrow account for all such funds. The Town's consultants/experts shall, in accordance with an agreement between the Town and its consultants or experts, bill or invoice the Town not less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance that shall not reasonably cover the cost of the remaining work of the Town's consultants/experts, the Town will require applicant to immediately replenish said escrow account in an amount set by the Town, but not to exceed \$2,500.00. Such additional escrow funds must be deposited with the Town before any further action or consideration is taken on the application. If, at the conclusion of the review process, the cost of such consultant/expert services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the Town prior to the issuance of any Special Permit. In the event that the amount held in escrow by the Town is more than the amount of the actual billing or invoicing by the Town's consultants or experts, the difference shall be promptly refunded to the applicant.

2. A request may be made by the applicant to reduce or eliminate the funds needed for the consultant/expert escrow. After a recommendation by the Attorney for the Town, Engineer for the Town and/or any other consultant/expert engaged by the Town pursuant to this chapter, the Town Board shall review the request and make a determination based upon the scope and complexity of the project, the completeness of the application and other information as may be needed by the Town Board or its consultant/expert to complete the necessary review and analysis. Additional escrow funds, as required and requested by the Town, shall be paid by the applicant. The initial amount of the escrow deposit may be established by the Town Board upon receipt of information sufficient to make such a determination.

3. As used in this section, the term "costs and expenses" shall be deemed to include the reasonable fees charged by engineers, consultants and/or experts hired, reasonable administrative costs and expenses incurred by the Town in connection with the permitting process and the repair, restoration and preservation of Town Roads and other Town property, and reasonable legal fees, accountants fees, engineers fees, costs, expenses, disbursements, expert witness fees, and other sums expended by the Town in pursuing any rights, remedies or claims to which the Town may be entitled under this Local Law or under applicable provisions of law, as against any Permittee, any person who has violated this Local Law, any insurance company, any bonding company, any issuer of a letter of credit, and/or any United States or State of New York agency, board, department, bureau, commission or official.

4. These funds shall accompany the filing of the application, and the Town shall maintain a separate escrow account for all such funds.

5. The Town is hereby authorized to withdraw funds from said escrow account (without prior notice to the Permittee) in order to promptly reimburse the Town for any costs and expenses (as defined herein). The Town must provide a monthly update as to monies expended from the escrow account.

In the event that there is any balance remaining in the escrow account as of the date that the Town Board determines that the Permit has expired and further determines that no damages or injuries have been caused to any Town Road or other Town property (and that no discharges or spills have occurred on any Town Road or other Town property) for which the Town has not been full reimbursed, the Town shall pay to the Permittee the balance remaining in the escrow account.

Section 21. Request for a Waiver.

All requests for a waiver from the standards set forth in this local Law shall be made to the Town of Wayland Town Board in writing and shall, contain the grounds on which the appellant relies for requesting the waiver, including all allegations on any facts on which the appellant will rely. Where the Town Board finds that due to the special circumstances of the particular case a waiver of certain requirements is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Town Board finds and records in its minutes that: (a) granting the waiver would be keeping the intent and spirit of this Local Law and is in the best interests of the community, (b) there are special circumstances involved in the particular case; (c) denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed, (d) the waiver is the minimum necessary to accomplish the purpose.

Section 22. SEQRA.

When applicable, the Town shall at all times comply with applicable provisions of the Environmental Conservation law of the State of New York and applicable provisions of the state environmental quality review regulations (6 NYCRR Part 617) (hereinafter "SEQRA").

Section 23. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Wayland hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 24. Repealer.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 25. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State.

Appendix A

Project Summary:

Project Location:

Start Date:

Completion Date:

Maximum Gross Vehicle Weight:

Proposed Truck Routes:

Other Items Deemed Necessary by the Town Board:

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2012 of the Town of Dansville was duly passed by the Town Board on October 8 2012, in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) and was deemed duly adopted on 20 in accordance with the applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative body) on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Natalie J. Baird
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: October 8, 2012

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

State of New York
County of Livingston

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature John Vago
Title Town Attorney
Town of Wayland

Date: October 8, 2012

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

MAR 12 2007

- County
- City of Wayland
- Town
- Village

Local Law No. 2 of the year 20 07

MIN
& STATE
S

A local law providing for the administration and enforcement of the
(Insert Title)

New York State Uniform Fire Prevention and Building Code

Be it enacted by the Town Board of the
(Name of Legislative Body)

- County
- City of Wayland as follows:
- Town
- Village

(Delete this line of text and enter text of local law here)

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town of Wayland. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 2. DEFINITIONS

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Certificate of Occupancy” or “Certificate of Compliance” shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Town” shall mean the Town of Wayland.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy or Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Town Board of this Town of Wayland;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town of Wayland's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of this Town of Wayland.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change

occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;

- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy or Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy or Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(2) flood hazard certifications.

(c) Contents of Certificates of Occupancy or Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder

shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Town of Wayland shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Town of Wayland shall be identified and addressed in accordance with the procedures established by any applicable Local Law as now in effect or as hereafter enacted or amended from time to time.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town of Wayland.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

(b) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and

(9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to the Town Board of this Town of Wayland a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town of Wayland, on a form prescribed by the Secretary of State, a report of the activities of this Town of Wayland relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town of Wayland is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town of Wayland in connection with administration and enforcement of the Uniform Code.

SECTION 15: VIOLATIONS

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally

or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town of Wayland.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Town of Wayland, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy or Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town of Wayland, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town of Wayland.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

SECTION 16: FEES

A fee schedule shall be established by resolution of the Town Board of this Town of Wayland. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy or Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

The Town Board of this Town of Wayland may, by resolution, authorize the Supervisor of this Town of Wayland to enter into an agreement, in the name of this Town of Wayland, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

SECTION 18. PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 19. CONFLICT BETWEEN LAWS

In the event of a conflict between the terms of this Local Law and another local law or ordinance, then the provisions of this Local Law shall control in the application and enforcement of the New York State Uniform Fire Prevention and Building Code.

SECTION 20. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20⁰⁷ of the ~~(County)(City)~~(Town)(Village) of Wayland was duly passed by the Town Board on 2/26 20⁰⁷, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Beverly Robinson

Clerk of the county legislative body, City, (Town) or Village Clerk or officer designated by local legislative body Beverly Robinson

(Seal)

Date: 2/26/2007

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister

Signature Patrick F. McAllister
Town Attorney

Title

~~County~~
~~City~~ of Wayland
Town
~~Village~~

Date: 2/26/2007

Post-It® Fax Note	7871	Date	2/23	# of pages	8
To	BILL SPENCER				
From	TOWN OF WAYLAND				
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Phone #	Phone #				
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New York State Department of State
 Division of Corporations, State Records
 and Uniform Commercial Code
 One Commerce Plaza, 99 Washington Ave.
 Albany, New York 12231-0001

www.dos.state.us/corps

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

Town of Wayland

Local Law No. 1 of the year 2017

A local law Regulating Wind Energy-Deriving Towers

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

Article I. Enactment, Authorization, Title, Purpose

The Town Board of the Town of Wayland does hereby ordain and enact the Town of Wayland Wind Energy-Deriving Towers Law pursuant to the authority and provisions of Section 10 of New York State Municipal Home Rule Law.

Article II. Intent and Purpose.

The purpose of this law is to regulate the development of large-scale wind energy-deriving towers (wind turbines) in the Town of Wayland. This law is to accommodate the necessary infrastructure for the provision of commercial wind-powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town of Wayland; furthermore, to address the visual, aesthetic, and land use compatibility aspect of wind energy deriving towers.

The Planning Board may deny installations in circumstances where wind towers are becoming so numerous in a neighborhood that their aggregate noise, visual or other impacts are offensive to prevailing values.

Article III. Definitions.

1. Accessory Facilities or Equipment: Any structure other than a wind turbine, related to the use and purpose of deriving energy from such towers, located at the tower facility.
2. Nacelle: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and braking system.

3. **Planning Board:** For the purposes of this section, shall mean the Town of Wayland Planning Board.

4. **Public Hearing:** A meeting announced and advertised in advance and opens to the public with the public given an opportunity to talk and participate.

5. **Right of Way:** A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

6. **Siting Agency:** Person or persons who are applying to site a wind energy-deriving tower facility.

7. **Tower Facility:** Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities and/or equipment.

8. **Wind Energy-Deriving Tower /Turbines:** any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

Article IV. Authority.

The Town Planning Board is hereby authorized to approve, approve with conditions, or disapprove wind energy-deriving tower siting applications in accordance within this law. The Planning Board is hereby authorized to hire an engineer or consultant to assist in the review of an application at the applicant's expense.

Article V. Procedure.

1. Completed applications for siting wind energy-deriving towers shall be submitted to the Town Code Enforcement Officer at least ten (10) days prior to the regular meeting of the Town Planning Board. The owner of the property or his/her duly authorized representative may attend the meeting of the Planning Board to discuss the application.

2. Within sixty-two days after the Town Planning Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official paper of the Town at least ten (10) days prior to the date thereof. The Town Planning Board shall give notice in writing by certified mail to all property owners of the land immediately adjacent to the proposed parcel where site is proposed. The Planning Board Secretary shall mail these notices at least ten (10) days in advance of the public hearing. The secretary will maintain record of Post Office receipts as proof of notification.

3. With-in sixty-two (62) days of the public hearing, the Town Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application shall be filed in the Office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

Article VI. Application Requirements.

A plan for the proposed development of a wind energy-deriving tower facility shall be submitted with the application and such plan shall show and include:

1. Name of the project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

2. Name and address of (1) the owner of the parcel where development is proposed, (2) the developer, and (3) the New York State licensed engineer, New York State licensed architect, or New York State licensed surveyor preparing the plan.

3. Name and address of all owners of record of abutting parcels and those within five hundred (500) feet of the property lines of parcel where development is proposed.

4. A map showing all existing lot lines, easements, and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility. All underground utility lines on the site.

5. A survey of land to be leased, if the Planning Board deems it necessary.

6. A map showing existing and proposed topography at five-foot contour levels.

7. A landscape plan showing all existing all natural land features, trees, forest cover, and all proposed changes to these features including size and type of plant material and erosion control measures.

8. The Planning Board may require soil test data if such data is necessary to judge the adequacy of design.

9. All underground utility lines on the site.

10. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form (EAF).

11. Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to stimulate the appearance of the as built above ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the Planning Board and all pictures shall be no smaller than 8" x 10".

12. Documentation of the proposed intent and capacity of energy generation as well as justification for the height of any wind energy deriving tower and justification for any clearing required.

13. Preliminary report prepared by the wind turbine siting agency describing:

- Surrounding topography in relation to the capabilities for generation of electricity by wind,
- Required improvements for construction activities, including those within the public's right of way of land controlled by the Town of Wayland,
- Proposed mitigation measures for visual impacts of tower facility,
- Proposed safety measures to mitigate wind energy-deriving tower failure.

14. Elevation map showing the wind energy-deriving tower's height and design including a cross-section of the structure and components of the nacelle; the wind energy-deriving tower's compliance with applicable structure standards; and the wind energy-deriving tower's abilities in terms of producing energy.

15. Demonstration of a need for the proposed wind energy-deriving tower facility.

16. A description of the general geographic areas that would be acceptable for wind projects within the Town of Wayland; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the wind energy-deriving tower facility.

17. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.

18. Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. The base map used shall be a published topographic map showing natural and structural or built features.

19. Report showing soil logs, soil profile analysis, and storm water run-off calculations for the area being disturbed.

20. Plans to prevent pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, and flooding of other properties, as applicable. There should be pre-construction and post construction drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site.

21. Evidence of insurance coverage (binder or equivalent) insuring the installation, the owner, and the public against risk of property damage or personal injury in an amount to be set by the Planning Board.

Article VII. Standards.

The Town Planning Board shall permit the development of wind energy-deriving towers and related structures with approval. Wind energy-deriving towers and facilities shall be subject to the following requirements.

1. Location: Applicants for wind energy-deriving towers shall locate, erect and site towers in accordance with the following requirements:

- No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce disturbance in the links operation.
- No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- No individual tower facility shall be installed in any location where there is a recognized migratory flight path for birds or at a location where birds commonly congregate, unless applicant can demonstrate the operation of the wind energy-deriving tower will not have a significant impact on either migrating or resident birds.
- All wind turbine towers shall be set back from adjacent property lines and any pre-existing structures/above ground utility lines by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional fifty percent (50%) of its fall zone. Additional setbacks may be required by the Planning Board in order to provide for the public safety, health, and welfare. The Planning Board may waive setback requirements from adjacent properties if such adjacent properties will be participating in the wind project.

2. Fences or other anti-climbing devices shall control the proposed installation. A sign indicating electrical hazards shall be placed on the tower warning of electrical hazard and demand "no trespassing".

3. All applicable utility regulations shall be satisfied as to interconnection and operation of interconnected systems.

4. The level of noise produced during wind tower operation shall not exceed forty-five (45) (dBA) measured at a distance of 1000 feet from the base of the wind energy-deriving tower or from the nearest residential structure.

5. Emergency Shutdown/Safety:

- Applicant shall post emergency telephone number(s) so that the appropriate people may be contacted should any wind energy-deriving tower need immediate attention.
- No wind turbine shall be permitted to lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or nacelle.

6. Lighting: Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA).

7. Utility Service: All power transmission lines from the wind energy-deriving tower facilities to an on-site substation shall be underground.

8. Height:

- The height of any wind energy-deriving tower shall be limited to the minimum height required to provide needed energy by demonstrated demand.
- The minimum distance between the ground and any part of the rotor blade should be a minimum of thirty (30) feet.

9. Access Road: Existing roadways shall be used for access to the site whenever possible. In the case of constructing roadways, they shall be constructed in a way so that they are not conspicuous to the surrounding environment.

10. Accessory Structures / Facilities: Transmission facilities and/or buildings shall be located behind ridges or vegetation to screen from visibility.

11. Security Provisions: No climbing device of any kind shall be attached to the wind turbine closer than twenty (20) feet from the ground. Climbing devices shall be added to the outside of each tower.

Article VIII: Maintenance.

1. A New York State licensed professional engineer shall inspect all wind energy-deriving tower facilities at least every fifth year for structural integrity at no expense to the Town. Additional inspections shall be made after periods of severe wind or seismic activity. A copy of the inspection report shall be submitted to the Town of Wayland Code Enforcement Officer.

Article IX. Decommissioning.

1. Conditions shall be placed requiring removal of wind energy-deriving towers when use has ceased.

2. The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Code Enforcement Officer in writing within thirty (30) days following the discontinuance of the use of the energy-deriving towers. This letter will be filed with the Code Enforcement officer prior to the issuance of the building permit. The tower owner shall remove the obsolete or unused wind turbines and accessory structures from any site and restore the site to pre-construction conditions within one hundred and twenty (120) days of such notification. Failure to notify and/or remove said the obsolete or unused tower in accordance with these regulations shall be in violation of this law, and the cost of removing the wind energy-deriving towers and accessory structures may be assessed against the tower owner.

Article X. Fees.

Applicable fees will be collected per established fee schedules set by the Wayland Town Board.

Article XI. Final Application Approval.

1. The Planning Board may approve the application, deny the application, or grant the application with written stated conditions.

2. Action on the application shall be by written decision based upon substantial evidence submitted to the Planning Board.

3. Prior to obtaining a building permit, the applicant must provide a financial security bond for the removal of the wind energy-deriving tower, in favor of the Town of Wayland, in an amount approved by the Town of Wayland Planning Board, but not less than \$100,000.00.

Article XII. Jurisdiction.

This law shall be interpreted according to the law of the State of New York, and for the purpose of any litigation arising hereunder, any person or entity subject to this law agrees that the courts of the State of New York, and no other state, shall have jurisdiction and that any legal action hereunder will be venued in Steuben County, New York.

Article XIII. Exemptions

Notwithstanding any of the foregoing, the Planning Board may exempt from the strict application of this law any wind energy-deriving tower intended and used solely for the personal use of the owner of the property on which it is located.

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2017, of the Town of Wayland, was duly passed by the Town Board on February 13, 2017, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.~~

~~6. (County local law concerning adoption of Charter)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Natasha Baird

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: *February 13, 2017*

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate a new matter.

FILED
STATE RECORDS

SEP 21 2017

Town of Wayland, Steuben County, New York

DEPARTMENT OF STATE

Local Law No 4 of the year 2017

“Amended Local Law Regulating Wind Energy-Deriving Towers

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

Article I. Enactment, Authorization, Title, Purpose

The Town Board of the Town of Wayland does hereby ordain and enact the Town of Wayland Wind Energy-Deriving Towers Law pursuant to the authority and provisions of Section 10 of New York State Municipal Home Rule Law.

Article II. Intent and Purpose.

The purpose of this law is to regulate the development of large-scale wind energy-deriving towers (wind turbines) in the Town of Wayland. This law is to accommodate the necessary infrastructure for the provision of commercial wind-powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town of Wayland; furthermore, to address the visual, aesthetic, and land use compatibility aspect of wind energy deriving towers.

The Planning Board may deny installations in circumstances where wind towers are becoming so numerous in a neighborhood that their aggregate noise, visual or other impacts are offensive to prevailing values.

Article III. Definitions.

1. Accessory Facilities or Equipment: Any structure other than a wind turbine, related to the use and purpose of deriving energy from such towers, located at the tower facility.
2. Nacelle: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and braking system.

3. Planning Board: For the purposes of this section, shall mean the Town of Wayland Planning Board.

4. Public Hearing: A meeting announced and advertised in advance and opens to the public with the public given an opportunity to talk and participate.

5. Right of Way: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

6. Siting Agency: Person or persons who are applying to site a wind energy-deriving tower facility.

7. Tower Facility: Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities and/or equipment.

8. Wind Energy-Deriving Tower /Turbines: any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

Article IV. Authority.

The Town Planning Board is hereby authorized to approve, approve with conditions, or disapprove wind energy-deriving tower siting applications in accordance within this law. The Planning Board is hereby authorized to hire an engineer or consultant to assist in the review of an application at the applicant's expense.

Article V. Procedure.

1. Completed applications for siting wind energy-deriving towers shall be submitted to the Town Code Enforcement Officer at least ten (10) days prior to the regular meeting of the Town Planning Board. The owner of the property or his/her duly authorized representative may attend the meeting of the Planning Board to discuss the application.

2. Within sixty-two days after the Town Planning Board meeting where the complete application is submitted, a public hearing shall be held. Notice of such public hearing shall be published in the official paper of the Town at least ten (10) days prior to the date thereof. The Town Planning Board shall give notice in writing by certified mail to all property owners of the land immediately adjacent to the proposed parcel where site is proposed. The Planning Board Secretary shall mail these notices at least ten (10) days in advance of the public hearing. The secretary will maintain record of Post Office receipts as proof of notification.

3. Prior to consideration for final approval, the Planning Board shall ensure an environmental review, in compliance with New York State Conservation Law. If a positive declaration of environmental significance is made by the established Lead Agency, the applicant must provide to the Town a Draft Environmental Impact Statement (DEIS) addressing potential impacts and describing proposed mitigation.

4. With-in sixty-two (62) days of the public hearing or acceptance of Final Environmental Impact Statement (FEIS), the Town Planning Board may approve, conditionally approve, or disapprove the application. The time in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board on the application shall be filed in the Office of the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

Article VI. Application Requirements.

A plan for the proposed development of a wind energy-deriving tower facility shall be submitted with the application and such plan shall show and include:

1. Name of the project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

2. Name and address of (1) the owner of the parcel where development is proposed, (2) the developer, and (3) the New York State licensed engineer, New York State licensed architect, or New York State licensed surveyor preparing the plan.

3. Name and address of all owners of record of abutting parcels and those within five hundred (500) feet of the property lines of parcel where development is proposed.

4. A map showing all existing lot lines, easements, and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility. All underground utility lines on the site.

5. A survey of land to be leased, if the Planning Board deems it necessary.

6. A map showing existing and proposed topography at five-foot contour levels maximum.

7. A landscape plan showing all existing all natural land features, trees, forest cover, and all proposed changes to these features including size and type of plant material and erosion control measures.

8. The Planning Board may require soil test data if such data is necessary to judge the adequacy of design.

9. All underground utility lines on the site.
10. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form (EAF).
11. Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to stimulate the appearance of the as built above ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the Planning Board and all pictures shall be no smaller than 8" x 10".
12. Documentation of the proposed intent and capacity of energy generation as well as justification for the height of any wind energy deriving tower and justification for any clearing required.
13. Preliminary report prepared by the wind turbine siting agency describing:
 - Narrative documenting compliance with all standards found in Article VII of this law,
 - Surrounding topography in relation to the capabilities for generation of electricity by wind,
 - Required improvements for construction activities, including those within the public's right of way of land controlled by the Town of Wayland,
 - Visual Impact assessment and proposed mitigation measures,
 - Proposed safety measures to mitigate wind energy-deriving tower failure,
 - Noise Analysis and proposed mitigation of any potential threshold exceedance,
 - Documentation of Ice & Blade throw potential and mitigation,
 - Emergency and Fire Protection Plan developed for each tower.
14. Elevation map showing the wind energy-deriving tower's height and design including a cross-section of the structure and components of the nacelle; the wind energy-deriving tower's compliance with applicable structure standards; and the wind energy-deriving tower's abilities in terms of producing energy.
15. Demonstration of a need for the proposed wind energy-deriving tower facility.
16. A description of the general geographic areas that would be acceptable for wind projects within the Town of Wayland; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the wind energy-deriving tower facility.

17. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.

18. Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. The base map used shall be a published topographic map showing natural and structural or built features.

19. Report showing soil logs, soil profile analysis, and storm water run-off calculations for the area being disturbed.

20. Plans to prevent pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, and flooding of other properties, as applicable. There should be pre-construction and post construction drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site.

21. Evidence of insurance coverage (binder or equivalent) insuring the installation, the owner, and the public against risk of property damage or personal injury in an amount to be set by the Planning Board.

Article VII. Standards.

The Town Planning Board shall permit the development of wind energy-deriving towers and related structures with approval. Wind energy-deriving towers and facilities shall be subject to the following requirements.

1. Location: Applicants for wind energy-deriving towers shall locate, erect and site towers in accordance with the following requirements:

- No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce disturbance in the links operation unless the Applicant otherwise proposes to mitigate a disturbance in the communication links operation.
- No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- No individual tower facility shall be installed in any location where there is a recognized migratory flight path for birds or at a location where birds commonly congregate, unless applicant can demonstrate the operation of the wind energy-deriving tower will not have a significant impact on either migrating or resident birds.

- All wind turbine towers shall be set back from adjacent property lines and any pre-existing structures/above ground utility lines by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional fifty percent (50%) of its fall zone. Additional setbacks may be required by the Planning Board in order to provide for the public safety, health, and welfare. The Planning Board may waive setback requirements from adjacent properties if such adjacent properties will be participating in the wind project and owner of said property(ies) provides written documentation requesting relief from setback requirements.

2. Fences or other anti-climbing devices shall control the proposed installation. A sign indicating electrical hazards shall be placed on the tower warning of electrical hazard and demand "no trespassing".

3. All applicable utility regulations shall be satisfied as to interconnection and operation of interconnected systems.

4. The level of noise produced during wind tower operation shall not exceed forty-five (45) (dBA) measured at the nearest residential structure, or from any nonparticipating property boundary, whichever is less. If the ambient noise level exceeds 45 dba, then the permissible noise level shall be no more than the ambient noise level plus 6 dba. If a participating property owner requests a waiver from these noise limitations, written documentation from said property owner must be provided for consideration by the Planning Board.

5. Emergency Shutdown/Safety:

- Applicant shall post emergency telephone number(s) so that the appropriate people may be contacted should any wind energy-deriving tower need immediate attention.
- No wind turbine shall be permitted to lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or nacelle.

6. Lighting: Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA).

7. Utility Service: All power transmission lines from the wind energy-deriving tower facilities to an on-site substation shall be underground to the maximum extent practicable.

8. Height:

- The height of any wind energy-deriving tower shall not exceed 500 feet.
- The minimum distance between the ground and any part of the rotor blade should be a minimum of thirty (30) feet.

9. Access Road: Existing roadways shall be used for access to the site whenever possible. In the case of constructing roadways, they shall be constructed in a way so that they are not conspicuous to the surrounding environment.

10. Accessory Structures / Facilities: Transmission facilities and/or buildings shall be located behind ridges or vegetation to screen from visibility.

11. Security Provisions: No climbing device of any kind shall be attached to the wind turbine closer than twenty (20) feet from the ground. Climbing devices shall be added to the outside of each tower. Anti-climbing mechanisms shall be installed on any climbing devices for the first 10 feet.

Article VIII: Maintenance.

1. A New York State licensed professional engineer shall inspect all wind energy-deriving tower facilities at least every fifth year for structural integrity at no expense to the Town. Additional inspections shall be made after periods of severe wind or seismic activity. A copy of the inspection report shall be submitted to the Town of Wayland Code Enforcement Officer.

Article IX. Decommissioning.

1. Conditions shall be placed requiring removal of wind energy-deriving towers when use has ceased for a period of one (1) year.

2. The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Code Enforcement Officer in writing within thirty (30) days following the discontinuance of the use of the energy-deriving towers. This letter will be filed with the Code Enforcement officer prior to the issuance of the building permit. The tower owner shall remove the obsolete or unused wind turbines and accessory structures from any site and restore the site to pre-construction conditions within one hundred and twenty (120) days of such notification. Failure to notify and/or remove said the obsolete or unused tower in accordance with these regulations shall be in violation of this law, and the cost of removing the wind energy-deriving towers and accessory structures may be assessed against the tower owner.

Article X. Fees.

Applicable fees will be collected per established fee schedules set by the Wayland Town Board.

Article XI. Final Application Approval.

1. The Planning Board may approve the application, deny the application, or grant the application with written stated conditions.

2. Action on the application shall be by written decision based upon substantial evidence submitted to the Planning Board.

3. Prior to obtaining Site Plan Approval, the applicant must provide a financial security bond for the removal of the wind energy-deriving tower and appurtenances, in favor of the Town of Wayland, in an amount approved by the Town of Wayland Planning Board. The amount shall be determined by an independent New York State Licensed engineer.

Article XII. Jurisdiction.

This law shall be interpreted according to the law of the State of New York, and for the purpose of any litigation arising hereunder, any person or entity subject to this law agrees that the courts of the State of New York, and no other state, shall have jurisdiction and that any legal action hereunder will be venued in Steuben County, New York.

Article XIII. Exemptions

Notwithstanding any of the foregoing, the Planning Board may exempt from the strict application of this law any wind energy-deriving tower intended and used solely for the personal use of the owner of the property on which it is located.

Article XIV. Local Law No. 1 of 2017 is repealed and replaced by this Local Law

This Local Law shall take effect immediately upon filing with the New York State Secretary of State.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2017, of the Town of Wayland, was duly passed by the Town Board on September 11, 2017, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above:



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: September 11, 2017

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Wayland
- Town
- Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUN 27 2006

Local Law No. 1 of the year 2006

A local law providing that no exemption under Real Property Tax Law §487
(Insert Title)
be applicable within our jurisdiction with respect to any solar or
wind energy system or farm waste energy system.

Be it enacted by the Town Board of the
(Name of Legislative Body)

- County
- City of Wayland as follows:
- Town
- Village

(Delete this line of text and enter text of local law here)

SECTION 1: LEGISLATIVE INTENT

It is the intent of this Local Law to provide no exemption from taxation as authorized in Real Property Tax Law §487.

SECTION 2: EXEMPTION FROM TAXATION

No exemption from taxation shall be applicable with respect to any solar or wind energy system or farm waste energy system.

SECTION 3: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 4: FILING

Certified copies of this resolution shall be forwarded to the New York State Office of Real Property Services, ATTN: Stephen Harrison, Esq., 16 Sheridan Avenue, Albany, NY 12210-2714; New York State Energy Research and Development Authority, 17 Columbia Circle, Albany, NY 12203-6399; and Donna Hatch, Director Real Property Tax Service Agency.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 06 of the ~~(County)(City)(Town)(Village)~~ of Wayland was duly passed by the Wayland Town Board on 2006, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

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6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

Beverly Robinson Town Clerk
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body Beverly Robinson
Town Clerk

Date: June 19, 2006

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister
Signature Patrick F. McAllister
Town Attorney
Title

~~County~~
~~City~~ of Wayland
~~Town~~
~~Village~~

Date: June 19, 2006