

PROPOSED LOCAL LAW D OF THE YEAR 2010

A Local Law entitled “Revisions to PUD Review by Town Board.”

BE IT ENACTED by the Town Board of the Town of Hyde Park as follows:

Section-I: TITLE

This Local Law shall be known and cited as Town of Hyde Park Local Law No. ___ of 2010 entitled “Revisions to PUD Review by Town Board.”

Section-II: LEGISLATIVE INTENT AND PURPOSE.

- A. Pursuant to Article 16 of New York Town Law, the Town Board of the Town of Hyde Park is empowered by the Legislature to regulate the use of land within the Town for the purpose of promoting the health, safety, morals, and the general welfare of the community. The general welfare of the Town of Hyde Park is promoted and sustained by the creation of a healthy tax base. A thriving and vital commercial tax base is essential to relieve the residential property owners of the Town from shouldering the lion’s share of the financial burdens for supplying municipal services. New commercial development is particularly important to reduce the burden of school taxes because such properties do not generate a demand on school services like residential properties do.
- B. Currently, a large percentage of valuable real estate within the Town is not on the tax rolls because it is owned by entities that are exempt from real property taxation. These tax exempt properties require the other taxpayers to make up the difference. In tough economic times, it is all the more important for the Town of Hyde Park to attract and encourage commercial development to provide much needed jobs and tax revenues. The Town Board has determined that it is in the best interests of the residents and taxpayers of the Town of Hyde Park to expand the commercial tax base. The Town Board also wishes to promote commercial development in the Town of Hyde Park so that critical infrastructure, like water and sewer systems, which are vital to the health and economy of the Town, is expanded in a cost efficient manner.
- C. Planned Unit Developments (“PUD’s”) are regulated by Article 7 of the Town of Hyde Park Zoning Code. PUD’s require legislative action on the part of the Town Board to designate areas within the Town for PUD’s as well as to set the appropriate zoning requirements within the PUD. The creation of a PUD within the Town of Hyde Park is an important tool to bring necessary commercial development to the Town.
- D. Creation of a PUD requires the interaction and coordination of the rezoning process with State Environmental Quality Review (SEQR), site plan review and sometimes subdivision review. In order to attract beneficial commercial development it is important to streamline

the PUD review process. It is the intent of this Local Law to make the Town Board the body to conduct SEQR review, approve the rezoning of the property to PUD status by approval of the PUD concept plan and to ultimately issue site plan approval when an appropriate site plan is created by the applicant. The new PUD procedure will allow for approval by one board alone, thus streamlining the approval process for applicants.

- E. The Town Board intends to solicit the advice and input of the Planning Board early and throughout the process. Input from the Planning Board during site plan review will be most important.
- F. This Local Law is consistent with the goals of the Town of Hyde Park's Comprehensive Plan which stressed the need for economic development. This Local Law recognizes that the Zoning Code of the Town of Hyde Park embodies the principles of the Greenway Compact that are set forth in the Greenway Connections and ratifies the planning principles set forth in the Greenway Guides. The Town Board recognizes its obligations to continue to conduct SEQR so that a suitable balance of social, economic and environmental factors be incorporated into the planning and decision-making processes. To discharge its duties under SEQRA, the Town Board will continue the practice of retaining experts in the fields of municipal planning, engineering, environmental law and other areas to assist in the review of the rezoning, site plan and special permit applications brought before the Board. This Local Law will also direct Town Board members to attend at least four hours of training each year to help them undertake their duties.
- G. This Local Law also addresses several deficiencies and inconsistencies in the Bellefield Planned Unit Development District. In particular, this Local Law removes the reference to the Bellefield District as an overlay district. These changes are consistent with the Comprehensive Plan which does not refer to the Bellefield District as an overlay district.
- H. This Local Law also corrects several minor errors regarding SEQRA reviews and outdated external SEQRA references. The revisions allow for actions that qualify as Type II actions under SEQRA to proceed as Type II actions for site plan and special permit review. The Code is also revised to reference the SEQRA regulations when selecting a lead agency.

Section-III: AMENDMENT OF CHAPTER 108 "ZONING"

Chapter 108 of the Town Code of the Town of Hyde Park is hereby amended as set forth below.

ARTICLE 2: DEFINITIONS

The Definitions of the following terms that appear at §108-2.2 shall be amended to read as follows:

BELLEFIELD PLANNED DEVELOPMENT DISTRICT

A mixed-use planned development district, the boundaries of which are identified on the Town Zoning Map.

SPECIAL USE PERMIT

A permit issued by the pursuant to Article 8 for a particular land use that is permitted in this chapter, subject to requirements imposed by this chapter.

ARTICLE 4: GENERAL REGULATIONS

§ 108-4.5(B)(1) shall be amended to read as follows:

B. Required off-street parking.

(1) The reviewing board shall determine reasonable and appropriate off-street parking requirements, taking into consideration all factors entering into the parking needs of each case as part of its site plan review.

§ 108-4.5(B)(2)(g)[2] shall be amended to read as follows:

[2] Parking designs with angle parking less than 90° may have shorter total dimensions of stall and aisle when deemed appropriate by the reviewing board.

The first paragraph of § 108-4.5(C)(1)(d) shall be amended to read as follows:

(d) Sight triangle. To assure motorists have a clear line of sight at intersections, the Guidelines for Driveway Design and Location, by the Institute of Transportation Engineers, and Policies and Standards for Entrances to State Highways, published by the New York State Department of Transportation shall be used as reference standards. In general, except for existing trees having all branches within six feet of the ground removed, no structure or planting more than three feet in height, as measured from the street surface at the nearest edge of the street, shall be erected, placed or maintained within the triangular area formed by:

§ 108-4.5(C)(3)(d) shall be amended to read as follows:

(d) In all Hamlet, Hamlet Core, Landing, Neighborhood Core, East Park Business, Town Center Historic and Neighborhood Business Districts, the development of any lot shall provide a walkway utilizing sidewalks or an acceptable equivalent along the full frontage of said lot to connect adjacent lots and to enhance and provide definition to the street providing frontage for the lot.

§ 108-4.5(D)(3) shall be amended to read as follows:

(3) Specifications. In each case, the final design shall provide screening of sufficient height and opacity to minimize the view of objectionable areas consistent with the above standards and the principles set forth in the Greenway Connections.

§ 108-4.5(E)(1)(b)[2] shall be amended to read as follows:

[2] Within any Core or Business District, and as required by the reviewing board, vegetative buffers and/or trees shall be provided adjacent to the walkway that is part of the street providing frontage for any lot developed under the provisions of this chapter.

§ 108-4.5(F)(1) shall be amended to read as follows:

(1) Open spaces disturbed by construction shall be restored with appropriate landscaping after construction is completed in accordance with a schedule previously agreed to by the approving board. In addition to the definition of open space in § 108-2, the following specific standards shall apply:

§ 108-4.5(K) shall be amended to read as follows:

(1) Open spaces disturbed by construction shall be restored with appropriate landscaping after construction is completed in accordance with a schedule previously agreed to by the approving board. In addition to the definition of open space in § 108-2, the following specific standards shall apply:

§ 108-4.7(A)(2) shall be amended to read as follows:

(2) No major permanent modification of land contour of existing land or modification of structures or removal of trees exceeding 12 inches in diameter as measured at four feet from the ground shall be permitted within such open space without site plan approval.

ARTICLE 5: DISTRICT REGULATIONS AND STANDARDS

§ 108-5.12 (A) & (B) shall be amended to read as follows:

§ 108-5.12. Bellefield Planned Development District standards.

A. The Bellefield Planned Development District is to be developed pursuant to a comprehensive development plan for all or a portion of the property, provided that if only a portion is to be developed, the portion to be developed pursuant to a comprehensive development plan shall not be less than 100 acres, except as provided below in § 108-5.12C. Any application for and approval of development in this district shall be conducted pursuant to the provisions of Article 7, Planned Unit Development, except as modified herein. Where the applicant owns or controls a parent parcel of less than 100 acres, the waiver provision in § 108-5.12C shall apply. If the applicant owns or controls more than 100 acres, the comprehensive development plan for less than all of the applicant's acreage shall not be permitted to leave out of the plan a lot less than 100 acres in size, as it would create a substandard lot for development in the Bellefield District.

B. The following standards shall apply in the Bellefield Planned Development District, in addition to the standards applicable to all PUD's pursuant to Article 7. Where there is a conflict between these standards and those of Article 7, the standards of the Bellefield District shall control within the District.

(1) Uses. In addition to meeting the general purposes of this district as defined in § 108-3.1.1K, developments in the Bellefield Planned Development District shall provide a mixture of uses to:

- (a) Promote tourism-related businesses and build the Town's commercial tax base.
- (b) Encourage architectural designs that complement the FDR Home and Valkill National Historic Sites.
- (c) Develop a trail corridor or other transportation link between the FDR Home and Valkill.
- (d) Support the existing commercial activity in the Town Center Historic District.
- (e) Expand the existing mixed use in the Town Center Historic District in a sensitive manner.
- (f) Maintain and develop an attractive gateway entrance to the Town Center Historic District at Teller Hill.
- (g) Preserve and protect important views and natural features of the landscape.
- (h) Support and enhance safe and efficient pedestrian circulation.

(2) Density. The permitted bulk regulations and average density for subdivisions in the Bellefield Planned Development District shall be the same as those of the Greenbelt District, unless otherwise established by the Town Board.

(3) Mixed use. A mixture of uses is to be encouraged in the Bellefield Planned Development District. All permitted uses as indicated on the Schedule of Use Regulations (§ 108-5.14) are permitted, subject to approval of the PUD concept plan by the Town Board. Tourist-related facilities are encouraged. No more than 50% of the gross floor area of all development in the district may consist of residential development.

(4) Open space. Tree rows, hedgerows, stone walls, and similar features shall be retained when accommodating any new use, for the purpose of maintaining the rural flavor of the district and conserving the value of lots. Any required dedication or reservation of a park or parks for recreation purposes shall be contiguous with other Bellefield Planned Development open spaces in order to maintain the district's character.

(5) Parking. Parking shall be in accordance with § 108-4.5(B).

- (a) On-street parking shall be included on proposed streets when appropriate.
- (b) Large expanses of pavement shall be avoided in favor of dispersed smaller areas separated by landscaping, plazas and other uses in order to diminish the visual dominance of automobiles or vacant pavement over the buildings.

- (c) The primary use of any site shall not be, either visually or physically, parking or storage of vehicles.
 - (d) Off-street parking, other than prescribed, shall be developed away from Route 9, Route 9G, and St. Andrews Road.
 - (e) Bus stops and other provisions for mass transit shall be encouraged where appropriate.
 - (e) Multilevel parking structures are discouraged in this district but may be allowed where good cause is shown.
- (6) Access. The primary means of access are the corridors established by streets.
- (a) All streets shall contain a sidewalk or other appropriate walkway no less than five feet in width.
 - (b) Direct access from Route 9 shall be kept at a minimum and shall have landscaping and architectural features consistent with the entrances to the FDR Home, the Valkill National Historic Site and the Culinary Institute Campus.
 - (c) Service alleys for deliveries and utility access shall be established along rear property lines.
 - (d) Wherever practical, the extension or improvement of identified bicycle routes shall be provided.
- (7) Screening. Any outdoor storage area, other than sheds, shall be screened from all walkways and streets. Refuse storage areas shall be screened from all walkways and streets.
- (8) Signs. Signs are subject to regulation under Article 24 of this chapter.
- (9) Landscaping. The perimeters of any off-street parking or loading areas shall be generously landscaped, incorporating any screening required by this Chapter.
- (10) Architectural features. New buildings shall not mimic historic structures on adjacent lots, but shall be designed in a manner consistent with the architectural features of historic structures in the Town in terms of form, materials, fenestration and roof shape.
- (a) Buildings shall incorporate attractive bays, balconies, cornices, porches or similar architectural features as well as changes in wall plane to provide visual interest.
 - (b) New and renovated buildings shall utilize creative design to incorporate the traditional building forms, practices and styles found in the Town.
 - (c) Building facades shall contain a variety of well-articulated forms, arranged and interrelated in a manner that creates a unified composition of visual interest.

(d) New buildings shall utilize natural, recycled or synthetic materials such as wood, stone, masonry, recycled products and tile to provide the exterior finishes whenever practicable. Using stone in the manner characteristic of the major buildings of the Town shall be preferred.

(e) The major/minor axes of any new building plan form shall be related to the site frontage in the same manner as existing buildings in the Bellefield Planned Development District.

(f) Building facades shall vary one from another, but not excessively or dramatically.

(g) The materials and details used on any new building shall present an appearance in proportion, texture and application that is consistent with, and of no less quality than, that presented by the majority of buildings fronting on the same corridor.

(h) Building height shall be appropriate for an historic area.

(11) Building location. Buildings and tree plantings shall be used to establish visual corridors in the Bellefield Planned Development District.

(a) Buildings shall not be located so as to appear secondary to parking lots or automobile storage areas.

(b) Any new buildings, structures or parking shall be set back from Route 9 or Route 9G so as to be visually unobtrusive when viewed from said roads. Along Route 9, 150 feet shall be the minimum setback for all structures and parking.

(12) Protection. Any improvements or other modifications that alter significant portions of the existing rural and undeveloped landscape, by clear-cutting, major grading and similar landscape altering activities shall be avoided.

(13) Infrastructure priority. The Bellefield Planned Development District has no priority for the provision of infrastructure, as infrastructure will be developed as part of the PUD process.

§ 108-5.13(B)(1) & (2) shall be amended to read as follows:

(1) Site plan approval is required for all new buildings and major site development activities in the district.

(2) To assure the orderly development of the campus, the educational institution shall periodically prepare an advisory master plan for five or more years. This plan may be amended from time to time to address new or changed circumstances. A copy of each such plan, along with amendments to it, if any, shall be presented to the Hyde Park Town Board and Planning Board in a timely manner.

ARTICLE 7 PLANNED UNIT DEVELOPMENT

The first paragraph of **§108-7.2** shall be amended to read as follows:

§ 108-7.2. Eligibility.

The PUD Overlay District is designed to allow an applicant to submit a proposal for consideration of any uses or any mixture of uses permitted by this chapter in any district that are consistent with the Comprehensive Plan of the Town, and to allow the Town Board to approve any proposal which the Town Board determines to be in the best interest of the public health, safety and welfare, along with any conditions, requirements or limitations thereon which the Town Board deems advisable. Final approval of a PUD proposal rests with the Town Board. However, no PUD shall be eligible for approval unless the following minimum conditions are met:

§108-7.2(F) shall be amended to read as follows:

F. Phasing. If the development is to be phased, the Town Board may require that residential and nonresidential uses be included in each phase of the development to assure that each phase maintains the percentage balance of residential and nonresidential uses in the PUD concept plan. (See § 108-7.3B below.)

§108-7.3 shall be amended to read as follows:

§ 108-7.3. Procedure.

A PUD application shall include a PUD concept plan. The Town Board is the reviewing agency for the PUD concept plan, with advice from the Planning Board. The review process consists of the following steps:

A. Preapplication conference. A request for a preapplication conference shall be submitted, along with the appropriate preapplication fee, to the Zoning Administrator. The intent of the preapplication conference is for the applicant to obtain a general awareness of the Town's planning rationale, the compatibility of the proposed PUD with existing and anticipated land uses in the vicinity, and a familiarity with the Town's PUD procedures. The conference assists the applicant in determining the suitability of a proposed PUD in the proposed location, without incurring the expense of preparation of a PUD concept plan. The conference will be conducted at a meeting of the Town Board, open to the public, and included on its agenda in advance of the meeting. The Planning Board shall be invited to attend this conference. The preapplication conference is mandatory, but does not require the filing of a PUD concept plan or plat.

B. PUD concept plan submission. A PUD concept plan is a detailed plan that shows the proposed use and scale, density and intensity of use for all uses of all lands within the PUD in accordance with the information requirements in subsections §§ 108-7.4 and 108-30. An application for approval of the PUD concept plan shall be submitted in electronic form together with three paper copies to the Zoning Administrator, along with the appropriate application fee as set forth in the current fee schedule. The Zoning Administrator shall make a determination as to whether the applicant has met all filing requirements and shall notify the applicant of any deficiency. When the filing requirements have been met the Zoning Administrator shall forward a complete set of application documents to the Town Board,

together with a statement that the filing requirements have been met. If the PUD is to be phased, a PUD concept plan for each phase shall be submitted as part of the initial submission.

C. Town Board Review of PUD Concept Plan. The Town Board shall review the application for compliance with the standards set forth in § [108-7.5](#) of this chapter. Within 20 days after receipt of an administratively complete application, the Town Board shall entertain a presentation of the project by the applicant at a Town Board Meeting, review the application materials and the PUD concept plan, and review the EAF or DEIS submitted by the applicant. All PUD applications shall be considered Type I actions under SEQRA requiring coordinated review. The Town Board shall thereupon determine all other involved agencies, based on the material submitted by the applicant, and shall circulate a lead agency notification to all other involved and interested agencies as required by SEQRA. The Town Board shall be lead agency for purposes of SEQRA review unless a different lead agency is designated under the SEQRA regulations.

D. Planning Board action on the PUD concept plan. Prior to completion of its SEQRA review, the Town Board shall forward the PUD concept plan to the Planning Board for review, comment and advisory opinion. The Planning Board shall have sixty (60) days to review, advise and comment and submit its report to the Town Board. The Town Board shall hold a public hearing on the proposed PUD concept plan, which public hearing may be combined with a public hearing on the DEIS. Public notice shall be required in the same manner as provided in § [108-8.3C](#). The Town Board shall, within 62 days of the close of the public hearing, approve, approve with conditions, or disapprove the PUD concept plan. The approval of the Town Board shall be in the form of a local law which shall identify all the provisions of the PUD concept plan and amend the zoning map accordingly. If the Town Board fails to adopt the PUD concept plan, there shall be no further proceedings.

E. Final Development Plan. Upon the Town Board's adoption of a local law approving the concept plan and amending the Town's zoning map, the applicant shall submit a final development plan, in the same manner and level of detail as a site plan for approval by the Town Board. If the development is to be phased, the final development plan shall include a development plan for each phase. The final development plan is a detailed development plan prepared to scale showing accurately and with complete dimensioning the boundaries of a site and the location of all buildings, structures, land uses, and principal site development features. The submittal requirements are set forth in the following section.

F. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

§108-7.5 shall be amended to read as follows:

§ 108-7.5. Standards.

A. In reviewing the concept plan and the final development plan, the Town Board shall apply the general requirements set forth in this article, as well as Article 4 of this chapter and the standards for the underlying district set forth in Article 5, unless the Town Board determines that alteration of those standards in the context of the PUD would better protect the public

health, safety and general welfare and carry out the purposes of the Comprehensive Plan of the Town and the Greenway Connections.

B. In addition to the standards set forth above, no PUD may be approved by the Town Board unless the Town Board determines that it meets the following standards:

- (1) The proposed PUD must support and be consistent with the statement of land use policies, principles and guides in the Greenway Connections.
- (2) The proposed PUD must be suitable and compatible for the particular underlying district.
- (3) The proposed PUD must be compatible with the character of the underlying district with particular regard for the visual, aesthetic, safety and traffic impacts.
- (4) Any physical improvements in the proposed use must satisfy the site development standards applicable to the underlying district in which the proposed use is located, and with the standards for such underlying district.
- (5) The proposed PUD must conform to requirements in §§ [108-7.1](#) and [108-7.2](#).
- (6) Bicycle paths shall be included in such proposed development based on the following:
 - (a) The need for parallel bikeway routes that bypass busy commercial corridors within core areas where on-street parking may conflict with bicycle movement.
 - (b) The need for routes linking such bypass to a Core area location where bicycle racks are provided.

§108-7.6 shall be amended to read as follows:

§ 108-7.6. Decisions.

A. Approval of a PUD concept plan by the Town Board shall be considered a binding commitment on the applicant and all subsequent owners to adhere to such plan in the final development plan review and approval process. A PUD concept plan approval does not in any way require the applicant to proceed with the approved plan.

B. The Town Board shall approve, disapprove, or approve with modifications a final development plan in the same form and manner as a site plan pursuant to § 108-9.4, and the provisions therein shall be fully applicable to such approvals. Any approval of a PUD concept plan or final development plan shall incorporate the findings required under SEQRA and shall be made in written form that includes each of the following:

- (1) Identification of each use consistent with the use classifications of this chapter;
- (2) The maximum scale and density applicable to each such use;

(3) The manner in which the proposed plan supports and is consistent with the requirements in §§ 108-7.1 and 108-7.2 and the statement of land use policies, principles and guides in the Greenway Connections;

(4) The manner in which the proposed plan is found to be suitable for the particular underlying district;

(5) The manner in which the physical improvements will satisfy the site development standards applicable to the underlying district in which the proposed use is located, and will comply with the standards for such district;

(6) The particular elements of a site plan that are subject to Planning Board approval during site plan review;

(7) Any conditions which shall become restrictions for the approved PUD concept plan with the same force as if they were included in Article 5;

(8) Any required dedication or reservation, which must include a determination that such dedication or reservation is related both in nature and extent to the impact of the proposed project; and

(9) Modifications of site development elements necessary to ensure that any physical improvements meet the standards established in Article 5 for the particular underlying district.

C. Any disapproval of a final development plan must be in writing and must address the specific reasons for the disapproval.

D. Expiration. A final development plan approval shall be deemed to authorize only the particular uses specified in such approval and shall expire if substantial construction of the final development plan is not commenced within two years from the date of the final signature of the plan maps. The Town Board may, at its discretion, grant an extension to an approved final development plan. The applicant shall submit a written request 60 days prior to the date of expiration of the final development plan approval, requesting an extension for a specified time and the reason therefor. In granting the extension, the Planning Board may require revision of the previously approved final development plan to comply with current regulations and conditions. The Town Board shall render a decision, in writing, to the applicant and the other appropriate agencies within 45 days from the date of the application. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board.

ARTICLE 8: SPECIAL USE PERMITS

§108-8.3(B) shall be amended to read as follows:

B. SEQRA.

(1) The Planning Board shall serve as the lead agency, unless a different lead agency is designated under the SEQRA regulations.

(2) An application for a special use permit shall not be deemed complete until the lead agency has adopted a finding of no significant adverse environmental impact (negative declaration) or until a DEIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

ARTICLE 9 SITE PLAN APPROVAL

§108-9.3(C) shall be amended to read as follows:

C. SEQRA

(1) The Planning Board shall serve as the lead agency, unless a different lead agency is designated under the SEQRA regulations.

(2) An application for site plan approval shall not be deemed complete until the lead agency has adopted a finding of no significant adverse environmental impact (negative declaration) or until a DEIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

§108-9.3(E)(1) shall be amended to read as follows:

(1) The Planning Board shall hold a public hearing on any site plan review, unless it waives such hearing for a minor site development plan for good cause shown.

§108-9.3(E)(1)(b) shall be amended to read as follows:

(b) The Planning Board shall mail notice of said hearing to the applicant and to the owners of the properties within 150 feet of all property lines of the proposed site plan at least 10 days before said hearing and shall give public notice of said hearing in the official newspaper of the Town at least five days prior to the date thereof.

§108-9.3(F)(2) shall be amended to read as follows:

(2) In the event the Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof, in the amount established in the current schedule of fees adopted from time to time by the Town Board. In making such

determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan that could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in the Town of Hyde Park Recreation Trust Fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

ARTICLE 34: AMENDMENTS

§108-34.1(C)(1) shall be amended to read as follows:

(1) The date of the Town Board resolution to refer such proposed amendment or change to the Planning Board shall be deemed to be the initiation of proceedings. Failure on the part of the Planning Board to report its recommendation to the Town Board within 45 days or after two regularly scheduled meetings of the Planning Board have occurred, which ever time period is shorter, shall be deemed approval thereof.

§108-34.1(E) shall be amended to read as follows:

E. Decision. No amendment of this chapter, of whatever nature, that has not been approved by the Planning Board shall be adopted except by at least a super-majority vote (four Town Board members) of the Town Board, unless the Planning Board has failed to make a report within the time period set by §108-34.1(C)(1) in which case the Planning Board has been deemed to approve of the amendment.

ARTICLE 36: EXPENSES, ESCROW DEPOSITS AND RECREATION FEES

§108-36.1 shall be amended to read as follows:

§ 108-36.1. SEQRA expenses.

A. SEQRA expenses. When an action subject to SEQRA involves an application before the Town Board, the Planning Board or the Zoning Board of Appeals, the reviewing board may, if such reviewing board is the lead agency, charge a fee to the applicant to recover the actual cost to the Town of preparing and reviewing the EAF, EIS, the SEQRA findings, notices and all other requirements that are incidental to the SEQRA review process. Such fees may be imposed on the applicant by the lead agency and shall not exceed the amounts allowable under 6 NYCRR 617.13. Such fees may be imposed on an applicant for costs incurred by the Town for professional review services. For the purpose of this section, professional review services shall be defined as but not limited to those services provided by engineers, lawyers, architects, landscape designers, certified surveyors, property appraisers, planners and related professionals. Said monies shall be deposited in escrow and governed pursuant to the provisions of § 108-36.3 of this chapter.

B. Negative declaration. In all cases where the Town Board, the Planning Board or the Zoning Board of Appeals approves a negative declaration in connection with an action governed by

SEQRA, the actual cost of professional review services provided to the reviewing board between the time of receipt of the application and the final determination on the requested action by the reviewing board may be imposed on the applicant in the same manner as prescribed in Subsection A herein.

Section-IV: TRANSFER OF PENDING APPLICATIONS

- A. Upon the Effective Date of this Local Law, all pending Final Development Plans Applications pursuant to Article 7 shall be transferred to the Town Board, except those applications which have been granted a resolution of approval from the Planning Board.
- B. Upon the Effective Date of the Local Law, the Secretary to the Planning Board shall prepare a report of all applications for Final Development Plans and deliver a copy of said report to the Town Board members.

Section-VI: Numbering for Codification.

It is the intention of the Town of Hyde Park and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Wappinger; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not effect the validity of this Local Law or the provisions of the Code effected thereby.

Section-VII: Separability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Hyde Park that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

Section-VIII: Effective Date.

This Local Law shall become effective immediately upon filing with the Secretary of State as provided by law.