

Local Law No. ____ of 2017

TOWN OF JACKSON, WASHINGTON COUNTY, NEW YORK

A LOCAL LAW TO ESTABLISH SITE PLAN REVIEW

BE IT ENACTED by the Town Board of the Town of Jackson, as follows:

Article 100. Introduction

101. Enactment. The Town Board of the Town of Jackson, Washington County, does hereby enact the Town of Jackson Site Plan Review Law pursuant to the authority and provisions of Section 274-a of the New York Town Law and Section 10 of the New York Municipal Home Rule Law.

102. Title. This local law shall be known as the “Town of Jackson Site Plan Review Law.” The Town of Jackson is hereinafter sometimes referred to as the “Town.”

103. Purpose. The Town of Jackson is predominantly a rural, residential, and agricultural community. Through site plan review, it is the intent of this local law to enhance the character and to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is declared to be essential to the maintenance and continued development of the economy of the Town and general welfare of its inhabitants. The preservation of prime farmland, water resources, and environmentally sensitive and scenic areas will positively influence the Town’s economy and encourage economic development.

It is further the intent of this Local Law to ensure the optimum overall conservation, protection, preservation, development, and use of the natural and other resources of the Town through review and approval of site plans. Toward this end, this Local Law will be used to protect or improve upon existing levels of water, air, and soil purity. Also toward this end, this Local

Law will encourage the control of traffic congestion, and ensure site access for emergency services (e.g., fire/police protection and ambulance services), provide for adequate water supply, safe and proper means for sewage and solid waste disposal, and guard neighboring properties against intrusive development impacts.

104. Site Plan Review Process. The review process contained in this local law is designed to be flexible -- that is, sufficiently comprehensive to deal with large Land Use Activities but simple enough that it does not impose onerous regulatory burdens on small Land Use Activity projects. It accomplishes this goal of flexibility by combining exemptions (**Section 302**) with a pre-application sketch plan conference (**Section 403**). See Section 302 for a complete list of exempted uses. The exemptions include all Agricultural Uses; construction of one Single-Family Dwelling, or one Two-Family Dwelling, or a single mobile home; exterior alterations or additions to an existing Single-Family Dwelling, Two-Family Dwelling, or mobile home; exterior alterations to other existing Structures that do not increase the square footage by more than 25%; Noncommercial Solar Facilities; and Accessory Structures for residential use not exceeding 1,500 square feet on the first floor.

At the sketch plan conference, the Planning Board will identify what elements of a site plan should be included in the application, which is not filed until after the sketch plan conference (**Section 405**). The Planning Board is authorized to waive any and all elements that are not needed for a fair review of the proposed Land Use Activity (**Section 408**), thereby simplifying the preparation of an application. Similarly, public hearings on an application for site plan review are optional (**Section 409**), permitting prompt action by the Planning Board on small-scale projects.

105. Authorization of Planning Board. The Planning Board is hereby authorized to review and approve, approve with modification, or disapprove, site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this Local Law.

Article 200. Definitions

Accessory Structure means any Structure designed to accommodate an Accessory Use but detached from the principal Structure, such as a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

Agricultural Use. Land Use Activity that produces crops, for sale or for incorporation into other products. For example, the production of corn or hops, for incorporation into another product (milk or beer, in the example) is an agricultural use. A Tractor Supply store is not an agricultural use. Mining of sand, gravel, or other minerals is not an agricultural use.

Family means a person or persons related to each other by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit,

Land Use Activity means any construction or any other activity that changes the use or appearance of land or of a Structure, or the intensity of use of land or of a Structure. “Land Use Activity” shall explicitly include, but not be limited to, the following: new Structures, expansions to existing Structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

Noncommercial Solar Facility. Facilities for the generation of solar power, with a design capacity no greater than the electrical needs of the site on which they are located.

Single Family Dwelling means a complete self-contained residential unit for permanent habitation by one Family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

Shoreline means the mean high water mark of any lake, pond, river, or permanent stream.

Structure means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, tanks, and any fixtures, additions and alterations.

Two Family Dwelling means two complete but separate, self-contained residential units each intended for permanent habitation by one Family only, in a single structure having a common wall, roof, wall or ceiling,

and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

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

Article 300. Applicability

301. Uses Requiring Site Plan Approval. All new Land Use Activities within the Town shall require site plan review and approval before being undertaken, except those specified in Section 302.

302. Exempted Uses. Except as provided in Section 302.13, Land Use Activities described in Section 302.1 through Section 302.12 do not require site plan review and approval.

302.1. Construction of one Single-Family or Two-Family Dwelling (including not more than one additional Accessory apartment) and ordinary Accessory Structures and related Land Use Activities;

302.2. Installation of a single mobile home on an undivided lot;

302.3. All Agricultural Uses;

302.4. Ordinary repair or maintenance or interior alterations to existing structures or uses;

302.5. Exterior alterations or additions to an existing Single Family Dwelling, Two-Family Dwelling, or single mobile home (with no upper limit on the size of such alternations or additions);

302.6. Exterior alterations or additions to any existing Structure (other than the Structures listed in Section 302.5) that do not increase the square footage of the such Structure by more than twenty-five percent (25%); additional above-ground stories are to be included in this calculation. The 25% limit shall be calculated over the five-year period beginning at the time the first addition to the Structure is completed.

302.7. Noncommercial Solar Facilities;

302.8 Landscaping or grading which is not intended to be used in connection with a land-use reviewable under the provisions of this Local Law;

302.9. Signs under ten (10) square feet;

302.10. Garage, lawn, and porch sales not exceeding three days that occur no more frequently than five (5) times in any calendar year;

302.11. Swimming pools;

302.12. Accessory Structures for residential use only, not exceeding 1,500 square feet on the first floor;

302.13. The Town Supervisor, in consultation with the Chair of the Planning Board, may determine that site plan review shall be conducted on any proposed Land Use Activity, otherwise exempt under Section 302.1 through Section 302.12, if such Land Use Activity involves one or more of the following characteristics:

- (i) Construction on slopes greater than 25%;
- (ii) The Town Highway Superintendent has determined that there is potential for significant surface water runoff;
- (iii) Adverse impact on the safety of pedestrians or persons in vehicles;

- (iv) The Town Highway Superintendent has determined that emergency-vehicle access is not reasonably assured;
- (v) Potential adverse impact on the environment;
- (vi) Construction on a lot smaller than one-half (1/2) an acre;
or
- (vii) The Town Supervisor has determined that there is potential adverse impact on neighboring properties.

Any person uncertain about the applicability of this local law to a land-use activity may apply in writing to the Planning Board for a written determination of applicability.

303. Effect on Existing Uses. This local law does not apply to uses and structures that are lawfully in existence as of the date this local law becomes effective. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and is fully constructed and completed within one year from the effective date of this Local Law. Any use which would otherwise be subject to this law that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use is resumed.

Article 400. Procedures

401. General. Prior to undertaking any new Land Use Activity other than uses specifically exempted in Section 302 of this Local Law, a site plan approved by the Planning Board is required. Applicants for site plan approval should follow the procedures related to the sketch plan in Section 403 and as hereinafter set forth. Applicants must comply with all other procedures and requirements of this Local Law.

402. Fees and Reimbursable Costs. Applicants will be charged Site Plan Review Fees in accordance with the Site Plan Review Fee Schedule established by the Town Board from time to time. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The applicant will be provided with an estimate of such costs within ten (10) days after the sketch plan conference, and the applicant shall pay the estimated amount within ten (10) days after receipt of such cost estimate,

unless the Planning Board establishes a later time for payment. In the event that, during the time the application is pending, the Planning Board expects to incur costs in excess of the original estimate, the applicant shall pay such excess amount within fourteen (14) days after receipt of notice of the amount of such excess.

403. Sketch Plan & Application. The initial step in any application shall be for the applicant to request a sketch plan conference, such request to be made in writing by the applicant at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan application. The intent of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation and submission of a formal site plan, and for the Planning Board to review the basic design concept, advise the applicant as to potential problems and concerns, and generally to determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following with the applicant's request for a sketch plan conference:

403.1. A statement and rough sketch showing the location and dimensions of principal and Accessory Structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations; and

403.2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights of way, easements and other pertinent features within 200 feet of the boundaries of the parcel, including surface- and groundwater-related natural features and the location of the site in relation to surface and subsurface water resources and downslope surface water bodies.

403.3. The Planning Board shall, not less than fourteen (14) days prior to the sketch plan conference, notify the applicant which items, if any, from the site plan checklist contained in Section 405 the Planning Board deems necessary to have at the sketch plan conference, and the applicant shall endeavor to furnish those items at the sketch plan conference.

404. Environmental Assessment. The Planning Board is required to comply with the provisions of the New York State environmental quality review act, under Article 8 of the environmental conservation law and its implementing regulations. To that end, the applicant shall complete an Environmental Assessment Form and file, at the time of filing the application described in Section 405, four (4) copies with the Clerk of the Planning Board. [Town Law Sec. 274-a(10)]

405. Application. Following the sketch plan conference, the applicant shall file, in four (4) copies, an application for site plan review, on an application form available from the Planning Board Clerk, containing the items specified in the Site Plan Checklist in Section 406, omitting such items as may be waived by the Planning Board in accordance with Section 408.

406. Site Plan Checklist.

406.1. Title of drawing including name and address of applicant, tax map parcel number, and person responsible for preparation of such drawing; if the Planning Board determines that a survey is necessary for review of the proposed Land Use Activity, a survey shall be submitted;

406.2. North arrow, scale, and date of drawing;

406.3. Boundaries of the property, plotted to scale;

406.4. Existing and proposed structures;

406.5. Grading and drainage plan, showing existing and proposed contours, rock outcroppings, soil characteristics, and watercourses and water bodies;

406.6. Location, design, type of construction, proposed use and exterior dimensions of all proposed structures;

406.7. Location, design, and type of construction of all parking and truck loading areas, showing access and egress, together with proof of driveway permits by state, county, and town, where applicable;

406.8. Provision for pedestrian access;

406.9. Location of outdoor storage, if any;

406.10. Location, design, and construction materials of all existing and proposed site improvements, including drains, culverts, retaining walls and fences;

406.11. Description of the method of sewage disposal and location, design and construction materials of such facilities;

406.12. Description of the method of obtaining water supply; location, design and construction materials of such facilities; and demonstration that the placement of such facilities will not adversely affect the utilization of the adjacent property;

406.13. Location of fire and other emergency zones, including the source of water for fire suppression;

406.14. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;

406.15. Location, size, design, and type of construction of all proposed signs;

406.16. Location and proposed development of all buffer areas, including existing vegetative cover;

406.17. Location and design of outdoor lighting;

406.18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

406.19. General landscaping plan and planting schedule;

406.20. An estimated project construction schedule;

406.21. Record of application for, and status of, all necessary permits from other governmental agencies;

406.22. Identification of any permits from other governmental agencies required for the project's execution;

406.23. Existing natural groundwater-related and surface-water features, such as contours, rock outcroppings, soil characteristics, water courses, waterbodies, wetlands, wooded areas, flood hazard zones, aquifer and aquifer tributary areas; features to be retained in the proposed development should be indicated;

406.24. Location and design of all existing on-site or nearby ground-water-related improvements, including drains, culverts, water lines, sewers, septic systems, and wells; and

406.25. Other elements integral to the proposed development as may be considered by the Planning Board to be necessary in the applicant's particular proposed development.

407. Referral to County Planning Board. Before taking final action on a proposed site plan, the Planning Board shall refer the proposal to the Washington County Planning Board, if the site plan applies to real property within five hundred (500) feet of any of the following:

407.1. The boundary of any village or town;

407.2. The boundary of any existing or proposed county or state park or any other recreation area;

407.3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway;

407.4. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;

407.5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

407.6. The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the New York Agriculture and Markets Law, except that this Section 407.6 shall not apply to the granting of area variances. [**General Municipal Law Section 239-m.**]

408. Waiver of application requirements. If the Planning Board determines that one or more items on the site plan checklist in Section 406 are

not required for the public health safety or general welfare, inappropriate to a particular site plan, or not necessary for a fair review of the applicant's proposed Land Use Activity, the Planning Board may waive such items, and the applicant may omit them from the applicant's application. Any such waiver may be subject to appropriate conditions to ensure that the scope and the elements of the Land Use Activity remain as originally represented by the applicant. [Town Law, Section 274-a(5)]

409. Notice to Abutting Property Owners. Within ten (10) days after receipt of a completed application, the Planning Board shall give written notice of the application to all property owners whose properties abut the property on which the proposed Land Use Activity is to be located.

410. Public Hearing on Site Plan Application. At its option, the Planning Board may conduct one or more public hearings on a proposed site plan. The Planning Board shall mail notice of said hearing to the applicant at least ten (10) days before said hearing. The first of such public hearings shall be held within sixty-two days after receipt of the site plan application and shall be advertised in the Town's official newspaper at least ten (10) days before the hearing. The Planning Board shall mail notice of such hearing at least ten (10) days prior to the hearing to the owners of properties contiguous with the property on which the Land Use Activity is proposed. [Town Law Section 274-a(8)]

411. Planning Board action. Within sixty-two (62) days after receipt of the application for site plan approval, or, if a public hearing is held, within sixty-two days after the close of the hearing, the Planning Board shall render its decision to approve, approve with conditions, or disapprove the proposed site plan. 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 thereof mailed to the applicant. [Town Law Section 274-a(8)]

411.1. Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant.

411.2. Approval with modifications. The Planning Board may approve the site plan and require such specific, reasonable modifications,

conditions, and restrictions as are directly related to and incidental to the proposed site plan. Upon the Planning Board's approval of such a site plan, any such modifications, conditions, and restrictions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant. After adequate demonstration to the Planning Board that all conditions have been met and modifications made, and after payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant. [Town Law § 274-a(4)]

411.3 Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant, together with the Planning Board's reason(s) for disapproval.

412. Extension of time to render decision. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. [Town Law Section 274-a(8)]

Article 500. Review Standards. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

501. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs; if the adjoining properties contain uses different from the proposed use, to what extent will outdoor lighting be kept from impinging on the adjoining properties.

502. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers

and traffic controls; in cases of proposed development of ten (10) or more Dwellings, the Planning Board may require a detailed traffic study to include:

- the projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak traffic levels;

- the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and

- the impact of this traffic upon existing public and private ways in relation to existing road capabilities. Existing and proposed daily and peak-hour traffic levels as well as road capacity levels shall also be given.

503. Location, arrangement, appearance and sufficiency of off-street parking and loading areas.

504. Adequacy and arrangement of pedestrian traffic access and circulation walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

505. Adequacy of stormwater and drainage facilities to avoid ponding, flooding, and/or erosion. If necessary for a review of the application, the Planning Board may request the opinion of the New York Department of Environmental Conservation and/or the Washington County Soil & Water Conservation District.

506. Adequacy of water supply and sewage disposal facilities.

507. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's land and adjoining land, including plans to retain existing vegetation.

508. Adequacy of fire lanes and other emergency zones.

5.09. Overall impact on the neighborhood, including compatibility of design.

5.10. In the event mining activities are contemplated, explain how adverse impact on neighboring properties will be minimized, and demonstrate that operations (including reclamation plans) will comply with the requirements of other agencies, such as the New York Department of Environmental Conservation.

5.11. In the event that the proposed Land Use Activity is to be located within an area of special flood hazard, as defined by the Federal Emergency Management Agency (“FEMA”), demonstrate that such Land Use Activity has received approval from FEMA, if necessary, and from the Town of Jackson Supervisor, acting as Local Administrator of the Town’s flood damage prevention law; and

5.12. Compliance with any and all other local laws of the Town of Jackson, the County of Washington, and/or laws and regulations of the State of New York.

Article 600. Specific Standards and Considerations. The following specific standards shall apply in conjunction with the review standards:

601. Shoreline Standards and Considerations.

601.1. Interference with water bodies. To what extent can, and will, the proposed Land Use Activities avoid interference with the natural course of water bodies, avoid erosion of the shoreline, and minimize increased runoff of ground and surface water into the waterway?

601.2. Sewage and other waste. Will sewage facilities located on lots within 100 feet of a Shoreline be sufficient to avoid adverse impact on adjoining water bodies, and have all necessary approvals been received from Washington County Code Enforcement and/or the New York Department of Health?

601.3. Containment of spills. Does the proposed site plan include facilities sufficient to contain any leak, rupture, or spill that occurs as part of the proposed Land Use Activities?

602. Setbacks. All setbacks are to comply with the Washington County Uniform Fire and Building Codes.

603. Driveways. The Town Highway Superintendent shall review and approve the location and placement of any new driveway that enters a Town road.

Article 700. Performance Guarantee by Applicant. Subsequent to the approval of a site plan, no building permit, certificate of occupancy or certificate of completion shall be issued until all applicable improvements shown on the site plan have been installed, or until the applicant has furnished a sufficient performance guarantee for improvements not yet completed. As an alternative to the installation of required infrastructure and improvements, the Planning Board may require a performance bond or other security sufficient to cover the full cost of such infrastructure and improvements, in an amount reasonably estimated by the Planning Board. Such performance bond or other security shall be provided pursuant to Section 277(9) of the New York Town Law. [Town Law Section 274-a(2)(b), Section 274-a(7), and Section 277(9)]

Article 800. Extension of time for applicant to complete approved Land Use Activity. Approval of a site plan shall be valid for a period of one (1) year from the date issued by the Planning Board. The applicant may apply for a one-year extension by writing to the Planning Board at least thirty (30) days prior to the expiration of the initial one-year approval period.

Article 900. Enforcement and Remedies.

901. A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than 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; and, upon conviction of a third of subsequent offense all of which were committed within a period of five (5) years, 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. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate violation. [Town Law Section 268(1)]

902. The proper local authorities of the Town of Jackson, in addition to other remedies, may institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of a building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such premises. Upon the failure or refusal of the proper local officer, board, or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers and residents of the Town who are jointly or severally aggrieved by such violation may institute such appropriate action or proceeding in like manner as such local officer, board, or body of the Town is authorized to do. [Town Law Section 268(2)]

Article 1000. Severability. The provisions of this Local Law are severable. If any article, section, paragraph or provision of this Local Law shall be deemed invalid by any court of competent jurisdiction, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this Local Law shall remain valid and effective.

Article 1100. Effective Date. This Local Law shall take effect immediately upon the Town Clerk filing a copy of this Local Law with the New York Secretary of State, as required by Section 27 of the New York State Municipal Home Rule Law.

Article 1200. Judicial Review. Any person aggrieved by any final decision of the Planning Board or any other officer of the Town involved in the administration and enforcement of this Local Law may have the decision reviewed by the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of the decision in the office of the Town Clerk. [Town Law Sections 274-a(11) and 282]