

Village of East Nassau
Local Law No. 1 of 2010

LAND USE AND DEVELOPMENT
REGULATIONS
OF THE
VILLAGE OF EAST NASSAU
(RENSSELAER COUNTY, NY)

JULY, 2010

ZONING LAW OF THE VILLAGE OF EAST NASSAU

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ARTICLE I: TITLE, SCOPE AND PURPOSE

Section 1. **TITLE:** This Local Law shall be known and may be cited as The Land Use and Development Regulations of the Village of East Nassau, Rensselaer County, New York.

Section 2. **SCOPE:** This Local Law regulates the use of land and the location, construction, alteration and occupancy of structures located in the municipal boundaries of the Village of East Nassau. This Local law has been designed to further the policies set forth in the Village of East Nassau Comprehensive Plan and for said purposes as set forth below in Section 3 of this Article. As such, this Local Law divides the Village into land use districts, sets forth those uses that are allowed in each district and the various requirements for those uses, and provides the review and approval procedures for obtaining permits and approvals.

Section 3. **ENACTING CLAUSE AND PURPOSES:** This Local Law is enacted pursuant to the power and authority provided by the Municipal Home Rule Law and Article 7 of the Village Law of the State of New York, in accordance with the Village of East Nassau Comprehensive Plan and in order to promote the public health, safety and the general welfare of residents and property owners of the Village of East Nassau and to allow for future growth and development while protecting the rural, scenic, historic, aesthetic, economic, recreational and environmental qualities of the Village. This Local Law is also enacted for the following additional specific purposes:

- A. to recognize the significance of and to promote small scale farming and sustainable forestry practices in the Village.
- B. to promote adequate clean air, light and privacy for residents.
- C. to permit business and economic development compatible with the character of the Village of East Nassau and in furtherance of the Village Comprehensive Plan.
- D. to preserve and protect the physical characteristics of soils, topography, vegetation and water sources which sustain low-density rural housing dependent upon septic systems and wells.
- E. to secure people and properties from fire, flood and other dangers.
- F. to protect public health, safety and welfare, as well as public and private property, by insuring that activities which alter natural drainage patterns, vegetative cover or topography are performed in a manner which prevents erosion, sedimentation, ponding, flooding or other environmental damage.
- G. to prevent overcrowding of the land and undue concentration of population.
- H. to facilitate the safe, efficient and adequate provision of streets, traffic access, water supply, sewage disposal, and various public facilities and services.
- I. to encourage the management of natural resources including land, plant life, minerals, surface waters, ground waters, soils, and wildlife such that recreational, social, health and aesthetic benefits will remain.
- J. To further the goals and policies set forth in the Village of East Nassau Comprehensive Plan adopted on February 10, 1999 and as amended from time to time by the Village of East Nassau Board of Trustees.
- K. To protect the natural features and aesthetic character of the Village with special attention to preserving ridge lines, scenic views and vistas and the Village's rural character.

Section 4. APPLICABILITY - COMPLIANCE REQUIRED

No land use activity as listed below shall be hereinafter commenced, carried out, or continued except in full compliance with this Law and until a zoning permit has been issued by the Code Enforcement Officer, or other applicable permit or approval has been issued by the appropriate Board, stating that the proposed building, structure, use of land or structure, or development activity complies with the provisions of this Law:

- A. Establishment of a new use on a parcel of land;
- B. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion, enlargement or relocation of an existing use;
- C. Change of the exterior structural dimensions of a building or structure;
- D. The resumption of any use which has been discontinued for a period of one (1) year or longer;
- E. Erection, re-erection, demolition, or movement of a building or structure;
- F. Establishment of or change in the dimensions of a parking area for nonresidential or multi-family residential uses.

Section 5. **EXEMPTIONS**

A zoning permit, special permit or other approval under this Law shall not be required for the following (however, a building permit may be required):

- A. Signs conforming Article 5, section 3 of this Law;
- B. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding and roofing replacement, etc.);
- C. Minor accessory structures such as fences, posts, sidewalks, driveways, flagpoles, playground equipment, etc. that comply with the dimensional requirements set forth in this Law;
- D. The sale of products grown or raised on the land and the construction, alteration and maintenance of agricultural fences, roads, drainage systems and farm ponds;
- E. Garage, lawn and porch sales not exceeding three days in duration provided such sales shall not have taken place on the property except on an occasional basis;
- F. Non-commercial outdoor recreation uses, except those that involve substantial physical improvements; and
- G. Any activity for which a permit has been obtained pursuant to a prior zoning law, or which did not require a permit under the prior zoning law and for which substantial onsite work had been completed prior to the effective date of this Local Law.

Section 6. **EFFECTIVE DATE & EFFECT ON PRIOR LAWS**

This Local Law shall be effective upon adoption by the Board of Trustees and filing with the Secretary of State of the State of New York. Once effective, this Local Law supersedes and replaces, in its entirety, the Land Use and Development Regulations of the Village of East Nassau enacted in 1999 (Local Law No. 1 of 1999), and as amended from time to time, with the last amendment occurring in 2007.

ARTICLE II: ESTABLISHMENT OF DISTRICTS

Section 1. **LAND USE DISTRICTS:** In order to fulfill the purposes of this Local Law, the Village of East Nassau is hereby divided into the following land use districts:

RR Rural Residential District
HAM Hamlet District
WR Waterfront Residential District

Section 2. **PURPOSES:** The following statements of purpose define the spirit and intent of each land use district and the overlay, and are to be used as guides in the interpretation and application of this Local Law.

A. **RURAL RESIDENTIAL:** The Rural Residential District is established to maintain and protect the rural character, environmental quality and natural habitat of these parts of the Village while allowing for a mixture of housing types, opportunities and home occupations, and to provide for current and future residents the opportunities for a wide range of activities including rural living, agriculture, forestry, recreation and the enjoyment of wildlife.

B. **HAMLET:** The Hamlet District is established to promote the traditional purposes of Hamlets as the centers in the Village for residential, retail and social activity by providing for the review of proposed developments to ensure they are compatible with the historical and current character and development of this area.

C. **WATERFRONT RESIDENTIAL:** The Waterfront Residential District is established to provide for the protection of water quality and natural habitat while allowing for the enjoyment and residential development of the Village's lakes and ponds. Waterfront Residential Districts are that area of land so designated by the Zoning Board which surrounds any permanent body of water, which body of water is not less than five (5) acres in area.

Section 3. **LAND USE DISTRICT MAP:** The location and boundaries of the land use districts are shown on the Land Use District Map, Village of East Nassau. This map, together with all explanatory matter and all amendments is adopted and made a part of this Local Law, shall be kept up to date, and copies of this map shall be located in the offices of the Village Clerk and the Code Enforcement Officer for the use and benefit of the public.

Section 4. **INTERPRETATION OF DISTRICT BOUNDARIES:** Where uncertainty exists with respect to the boundaries of any land use district as shown on the Land Use District Map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following the centerlines of right-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically adjusted if a centerline or right-of-way line of such street, highway, public utility or watercourse is moved less than fifty (50) feet.

B. Where district boundaries are so indicated that they are approximately following the Village boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Where district boundaries are so indicated that they are approximately parallel to the Village boundary lines, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Land Use District Map or shall be determined by use of the scale shown on the Land Use District Map.

D. Where a Waterfront Residential District Boundary does not correspond to any of the standards set forth immediately above in this section, or a line connecting said standards, the boundary shall be determined by measuring horizontally four hundred (400) feet from the mean high water mark.

E. Where a district boundary line divides a single lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot may apply, at the owner's discretion and with the exception of the Flood Hazard Protection Area and areas within one hundred (100) feet of the mean high water mark of a lake, pond or stream or the boundary of a wetland, provided the lot has street or highway frontage in the less restricted district.

F. In all other cases, where dimensions are not shown on the Land Use District Map, the location of the boundaries shown on the map shall be determined by the use of the scale appearing thereon.

Section 5. **FLOOD HAZARD PROTECTION AREA:** A flood hazard protection area has been established in the Village of East Nassau which regulates uses and structures in such area for purposes of flood damage prevention. This area is established and regulated pursuant to the Flood Damage Prevention Law of 2007 of the Village of East Nassau (Local Law No. 1 of 2007 as was and may be amended from time to time).

Section 6. **APPLICATION OF DISTRICT REGULATIONS:** Except as otherwise provided in the Local Law:

A. No building, structure or land shall be used or occupied, and no building or structure of part thereof shall be erected, moved, altered reconstructed or enlarged except in conformance with the regulations specified in the Local Law for the district in which it is located.

B. No part of a yard or other open space required in connection with any building or use shall be included, as part of a yard or other open space similarly required for another building.

C. No yard or lot existing at the time of passage of this Local Law shall be reduced in size or area below the minimum requirements in this Local Law. Yards or lots created after the effective date of this Local Law shall meet the minimum requirements established by this Local Law.

D. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required for another building or use except as otherwise provided in this Local Law.

E. Within each district, the regulations in this Local Law shall be considered minimum regulations and shall apply uniformly to each kind of building, structure, land or use.

ARTICLE III: USE REGULATIONS:

Section 1. SCHEDULE OF USE REGULATIONS: The general use regulations in each land use district are set forth in the "DISTRICT SCHEDULE OF USE REGULATIONS". This schedule is supplemented, as appropriate, by other provision of this Local Law. Any use not specifically listed below is prohibited.

**Village of East Nassau
District Schedule of Use Regulations**

<u>Schedule of Uses</u>	<u>Land Use District</u>		
	Hamlet	Rural	Waterfront
Residential Uses			
Single Family Dwelling	P	P	P
Two Family Dwelling	P	P	P
Multiple Family Dwelling (max. 4 units)	X*	X*	NP
Individual Mobile Home	NP	NP	NP
Home Occupation I	P	P	P
Home Occupation II	P*	P*	P*
Outdoor Wood Boilers (OWB)/Furnaces	X*	X*	X*
Non-Residential Uses			
General Uses			
Bed & Breakfast	X*	X*	NP
Day Care	X*	X*	NP
Cemetery	NP	X*	NP
Agricultural Uses	X*	P	P*
Forestry Uses	NP	P	NP
Institutional Uses	X*	X*	NP
Outdoor Wood Boilers (OWB)/Furnaces	X*	X*	X*
Commercial Uses:			
Outdoor Recreation	X*	X*	NP
Restaurant	X*	NP	NP
Office	X*	NP	NP
Plant Nursery	X*	P	P*
Animal Hospital / Kennel	X*	P*	NP
Motor Home Park/Campground	X*	X*	NP
Retail Business	X*	NP	NP
Motor Vehicle Service Station or Motor Vehicle Repair Shop	P*	NP	NP
Camp	NP	X*	NP

Horse Riding/Boarding Stable	X*	P	P*
Lumber Yard	NP	X*	NP
Commercial Greenhouse	X*	P*	NP
Communications Towers	NP	X*	NP
Commercial Excavation	NP	NP	NP
Outdoor Wood Boilers (OWB)/Furnaces	X*	X*	X*

Legend:

P designates use permitted within the land use district
X designates a special permit use within the land use district
* indicates that site plan review is required
NP designates use prohibited by law within the land use district (the process for applying for a variance can be found in Article X).

ARTICLE IV: AREA AND DIMENSIONAL REGULATIONS:

Section 1. **SCHEDULE OF AREA AND DIMENSIONAL REGULATIONS:** The general area and bulk regulations in each land use district are set forth in the SCHEDULE OF AREA AND DIMENSIONAL REGULATIONS. This schedule is supplemented, as appropriate, by other provisions of the Local Law.

Section 2. **EXISTING LOTS OF RECORD:** Nothing contained herein shall prohibit the use of an existing lot of record of less than the prescribed area, width or depth, if such lot was owned individually or separately from any adjoining tract at the time of the enactment of this Local Law and the Land Use and Development Regulations enacted in 1999, provided that all other provisions of this Local Law are met in accordance with the provisions of Article VIII.

Section 3. **PRINCIPAL BUILDINGS ON A LOT:** Within any land use district, only one (1) principal building per lot shall be permitted. No building on any lot shall exceed 30,000 square feet of useable space.

Section 4. **CORNER LOTS:**

A. **REQUIRED FRONT YARDS:** On a corner lot, each street frontage shall be deemed a front street line and the required yard along each such lot line shall be required front yard. The owner shall decide which of the remaining yards shall be the required side yard and the required rear yard.

B. **OBSTRUCTIONS AT STREET INTERSECTIONS:** At all street intersections no obstructions to vision shall be erected on any lot within the triangle formed by the intersecting street lines or their projections where corners are rounded and a straight line joining said street lines at points which are fifty (50) feet distant from their point of intersection measured along said street lines or projections. Access ramps for the handicapped are allowed without restriction provided their location does not interfere with other pedestrian or vehicular traffic

Section 5. **REQUIRED YARDS:**

- A. Except in the Waterfront Residential District, if two (2) or more existing dwellings are located within two-hundred feet on each side of a proposed dwelling and on the same side of the street, said proposed dwelling shall not be required to have a greater front yard than the average setback of all existing dwellings so located.
- B. On streets with less than fifty (50) feet of public right-of-way, the front setback shall be measured perpendicularly from the centerline of the existing right-of-way with twenty-five (25) feet added to the required front yard setback to establish the building line.

Section 6. **DISTRICT SCHEDULE OF AREA AND DIMENSIONAL REGULATION**

LAND USE DISTRICT	YARD SETBACK		MAXIMUM		IMPERVIOUS SURFACE
	MINIMUM	MINIMUM	MINIMUM EACH		
	ACREAGE	WIDTH/DEPTH	FRONT/SIDE/REAR		
RESIDENTIAL					
USES:					
Rural Residential	2 Acres*	175/175	75/50/75		15%
Hamlet	2 Acres*	100/100	25/25/25		30%
Waterfront Residential	2 Acres	150/150	50/50/50		20%
NON-RESIDENTIAL					
USES:					
Rural Residential	2 Acres	200/200	75/75/75		15%
Hamlet	1 Acre	100/100	25/25/25		30%
Waterfront	2 Acres	150/200	75/100/100		15%

* Minimum acreage (lot area) specified is applicable to both one and two_family residential dwellings; three (3) acres minimum required for three and four-family residential dwellings.

ARTICLE V: SUPPLEMENTARY REGULATIONS

The following supplementary regulations are applicable to all land use districts within the Village of East Nassau unless otherwise provided in this Local Law.

Section 1. **GENERAL PERFORMANCE STANDARDS:** No use shall be permitted which does not conform to the following standards of use, occupancy and operation, in addition to all relevant provisions of other Local, County, State and Federal laws, regulations and ordinances. These standards are not intended to apply to generally accepted agricultural activities.

A. The emission of dust, dirt, smoke, fly ash, odor or noxious gases, which could cause damage to the health of persons, animals, plant life or other forms of property, is prohibited.

B. No glare, noise, or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated. All outdoor lighting fixtures shall be shielded and directed down to prevent glare or traffic hazard on surrounding properties and streets as well as to promote energy efficiency and the limitation of unnecessary light. In addition, all outdoor lighting for commercial uses shall comply with the additional minimal standards set forth in section 15 below.

C. There shall be no discharge or injection of any material of any nature into any wetland, watercourse or public or private disposal system or into the ground, which may degrade water quality or contaminate any water supply or otherwise endanger health, property or the environment.

D. No activity shall create a physical hazard by reason of fire, explosion, radiation, electromagnetic disturbance or other such cause to persons or property in the same or in an adjacent lot or property.

E. There shall be no storage of any material, either indoors or out, in such a manner that it facilitates the breeding of vermin or endangers health or the environment.

F. Measures to control erosion, sediment or surface water runoff shall be undertaken prior to, during and after any land use or development with the smallest practical area being exposed at any time and for the shortest practical period of time prior to restoration to an attractive natural condition, and these control measures shall be maintained as frequently as necessary to provide adequate control and to insure the free flow of water.

1. Mulching or temporary vegetation suitable to the site shall be used to protect exposed areas.
2. All topsoil excavated during site preparation shall be stockpiled and used for site restoration and where necessary such stockpiles shall be seeded or otherwise treated to minimize erosion.
3. Steep slopes where vegetation cannot be readily re-established or where problems of erosion, sediment or surface water runoff may result, shall not be disturbed or exposed.

G. Surface water runoff during and after land use or development shall not have a rate or velocity which exceeds that which prevailed under previously existing cover, nor shall it overload with increased runoff, sediment or other pollutant any watercourse.

H. Drainage systems shall be integrated so as to minimize erosion, sedimentation, slope instability and adverse effects on neighboring property owners, avoid concentration of water flow, prevent deflection of any receiving watercourse, and shall not transfer runoff from one watershed to another.

I. Ponding of water shall be avoided unless it is proposed within the site plan in which event there shall be sufficient water flow to maintain water levels and to avoid stagnation.

J. Land use or development shall be fitted to the vegetation, topography and other natural features of the land and shall preserve as many of these features as possible and, excluding forestry and agricultural uses, shall include the preservation to the extent possible of trees over twelve (12) inches in diameter measured at four and one-half (4.5) feet above ground.

K. Sufficient off-street parking shall be provided for all uses and no parking on public roads shall be permitted to satisfy offstreet parking needs.

Section 2. **ACCESSORY USES AND STRUCTURES:** All accessory uses and structures shall comply with the following provisions:

- A. Shall not be located in the required front yard
- B. Shall not be located less than ten (10) feet from any lot line and, if enclosed or roofed, shall not cover more than thirty (30) percent of the required side or rear yard in which it is located.
- C. Storage trailers, storage containers, shipping containers, dumpsters and/or other large storage or trash receptacles shall be considered temporary accessory structures and shall not be converted to permanent storage structures. They shall require a zoning permit prior to placement on the property and shall be limited to 60 days from installation and may extended by renewal permit up to a total of one year. This provision shall not apply to standard household trash cans or trash containers that are commonly used for residential dwellings.

Section 3. **SIGNS:** Any sign or use of signs shall strictly conform to the following standards.

- A. Signs shall at all times be maintained in good repair.
- B. Signs shall not attempt to appear to regulate, warn or direct highway vehicular traffic movement or to imitate or resemble official traffic signs, signals or devices.

- C. Signs shall not project into or over property lines or the public right-of-way.
- D. Signs shall not rotate or otherwise move. A sign may swing in response to the wind if it is suspended from sturdy chains or cables, where each chain or cable is no greater than six (6) inches in length, the sign itself is solid and contains no moving parts and has a surface area of no more than eighteen (18) square feet and, in the opinion of the Code Enforcement Officer, does not present a hazard.
- E. Signs shall not be illuminated by nor contain any light that flashes, is intermittent, rotates or otherwise moves.
- F. With the exception of temporary signs, all signs shall convey subject matter related exclusively to the premises on which the sign is located or to products, accommodations or activities on those premises.
- G. Temporary signs may be displayed for a reasonable amount of time in advance of the advertised activity or purpose and shall be removed promptly upon fulfillment of their function. Temporary signs shall be securely anchored and shall not overhang or occupy any portion of the public right-of-way. Temporary signs may be erected accessory to all uses in all districts.
- H. For home occupations, one sign on the premises not exceeding six (6) square feet in area may be erected to identify the home occupation.
- I. For non-residential uses within the Rural Residential and Waterfront Residential Districts, a single sign on the premises not exceeding twelve (12) square feet in surface area.
- J. For non-residential uses within the Hamlet, a total permitted surface area of thirty-six (36) square feet, which may be allocated at the discretion of the property owner as follows:
1. A single sign attached to the principal structure not exceeding eighteen (18) square feet in surface area; or
 2. Both a single sign attached to the principal structure not exceeding eighteen (18) square feet in surface area and a single free-standing sign also not exceeding eighteen (18) square feet in surface area.
- K. The top of any freestanding sign shall not exceed a height of twenty (20) feet above finished grade or the associated principal structure height, whichever is less. No freestanding sign shall be located closer than twenty (20) feet to any rear or side property line.
- L. All signs except temporary signs shall require a zoning permit prior to placement or installation and any sign not meeting the above standards shall require a special use permit.

Section 4. **HOME OCCUPATIONS:** This Local Law shall not prevent individuals from conducting a business, trade or profession at the principal residence, provided the standards set forth below and within this Local Law are met.

- A. The presence of the home occupation shall not alter the primary use of the premises as a residence nor shall it create a negative environmental impact. No traffic shall be generated in greater volumes than would be appropriate to a residential neighborhood with any need for parking generated by the home occupation met on-site and not in the required front yard or public right-of-way.
- B. HOME OCCUPATIONS I: shall include all occupations conducted solely on-premises and within the principal residence or for which the office activities of the home occupation are conducted solely on-premises and within the principle residence and the service-related activities of the home occupation are conducted primarily off-premises.
- C. HOME OCCUPATIONS II: shall include all occupations conducted solely on-premises and within an accessory structure where said use does not occupy more than four hundred (400) square feet of the accessory structure and where the accessory structure is at least twenty (20) feet from any side and rear property lines and not in a required front yard. Home Occupations II shall be subject to site plan review.

D. The following standards shall be met by all persons engaged in such activities:

1. Only the occupants of the principal residence and a maximum of two (2) non-resident full-time equivalent employees or assistants may conduct the activity
2. In no way shall the appearance of the principal residence or accessory structure be altered nor shall any activity be conducted, in a manner which would cause the premises to differ from its residential character
3. Display of products outside the residence shall be limited to a representative sample of the products sold in the home occupation
4. The retail sale of goods or articles not produced on the premises is permitted if they are incidental to the service provided by the home occupation
5. Materials and equipment used in connection with the home occupation shall be screened from view and stored in such a way that they do not pose a nuisance to adjacent property owners and being not less than fifty (50) feet from any property boundary.

Section 5. **EXCAVATION, STRIPPING, GRADING OR FILLING**

A. All commercial excavation as that term is defined in Article XII herein (said definition includes resource extraction, excavation, stripping, grading and filling above certain threshold levels) is prohibited in all land use districts of the Village of East Nassau.

B. The following activities are allowed in all land use districts without the requirement of a zoning permit:

1. Within any parcel or contiguous area:
 - a. Excavation/extraction that affects less than twenty (20) cubic yards of material;
 - b. Stripping that affects less than ten thousand (10,000) square feet of ground surface;
 - c. Grading which affects less than ten thousand (10,000) square feet of ground surface;
 - d. Filling which does not exceed a total of twenty (20) cubic yards of material.
2. Agricultural uses that are conducted pursuant to acceptable agricultural practices.
3. Activities preparatory to construction of a building for which a building permit has been issued or to move such material from one part of a premises to another part of the same premises when such activity is clearly incidental to the approved building construction/site development and necessary for improving the property for a use permitted in the district in which it is located.
4. Household gardening and activities related to the maintenance of landscaping.

Section 6. **LAKES, PONDS, STREAMS AND WETLANDS:** In order to preserve, protect and enhance the irreplaceable and incalculable benefits of lakes, ponds, streams and wetlands and their environs, their associated aquatic life, wildlife and plant life, their natural, scenic, historical, aesthetic and recreational values, to require development or land use to follow best management practices in areas within or bordering them and to preserve them in their natural and free flowing state, the following shall apply:

A. Within a lake or pond or within one hundred (100) feet of the mean high water mark, site plan review shall be required for all land use or development except that nothing herein shall be deemed to prohibit or require site plan review for fences, a dock with a surface area of less than one hundred (100) square feet or a raft with a surface

area of less than one hundred forty four (144) square feet when said structures are associated with a lot bordering the mean high water mark.

Excluding boathouses, rafts, docks and fences, all structures shall have a setback of at least fifty (50) feet from the mean high water mark.

B. All land use or development within a stream or within thirty (30) feet of the mean high water mark shall be strictly prohibited and between thirty (30) and one hundred (100) feet of the mean high water mark shall be subject to site plan review, except that nothing herein shall be deemed to prohibit or require any variance under this Local Law for the installation of stream improvement structures which are solely for the purposes of fisheries management and/or soil and erosion control. In addition, any area located within 30 feet of the mean high water mark of a stream shall be kept in its natural state to the maximum extent practicable (except for reasonable maintenance and removal of dead trees or brush) and no storage of any materials, grading, clearing or placement of any building or structure shall be permitted.

All stream improvement structures for fisheries management purposes or soil and erosion control must have a permit from the New York State Department of Environmental Conservation under Article 15 (Protection of Waters) of the Environmental Conservation Law and must also obtain site plan review and approval under this Local Law.

C. All land use or development within the boundary of a wetland or within thirty (30) feet therefrom shall be strictly prohibited and between thirty (30) feet and one hundred (100) feet of said boundary shall be subject to site plan review. In addition, any area located within 30 feet of the boundary of a wetland shall be kept in its natural state to the maximum extent practicable (except for reasonable maintenance and removal of dead trees or brush) and no storage of any materials, grading, clearing or placement of any building or structure shall be permitted.

D. Nothing herein shall be deemed to prohibit or require any certificate, site plan review or variance under this Local Law for the following activities:

1. The removal of any dead, damaged or downed tree or other vegetation that present safety or health hazards;
2. The cutting of the occasional tree for firewood within the area between thirty (30) feet and one hundred (100) feet of the boundary of a wetland or the mean high water mark of a lake, pond or stream provided such firewood is for personal use by the lot owner.

Section 7. **OUTDOOR STORAGE:**

A. Materials used in any commercial, business, manufacturing, fabricating, industrial or service operation may be stored outside the structure or structures accommodating such operations. If outdoor storage is a usual part of the permitted operation and occurs for more than a few days at a time, the storage area must be appropriately placed and screened on the site as part of the approval process. Such requirement shall not be deemed to apply to construction materials stored on-site during a period of construction, logs or firewood (except for a sawmill use) or agricultural products or materials.

B. Outdoor storage and dumpsters on residential properties shall not be located in front yards and must be screened so that they are not visible from adjacent properties and public roadways. This provision shall not apply to standard household trash cans or trash containers that are commonly used for residential dwellings

C. Unregistered vehicles – No more than two unregistered vehicles shall be parked outside of a fully enclosed structure on any given lot.

D. Storage of recreational vehicles – Outdoor storage of up to three recreational vehicles, motor homes and/or boats of any size is permitted on residential lots provided that such vehicle, motor home or boat is not stored between the street line and the front yard setback or within any side or rear yard setbacks except when stored in a driveway.

E. Storage of commercial vehicles – The outdoor storage or parking of commercial vehicle on a residential lot in excess of 12,000 pounds shall be restricted to one such vehicle and shall not be stored between the street line and the front yard setback or within any side or rear yard setbacks except when stored in a driveway. The outdoor storage of agricultural vehicles and equipment used for agricultural purposes on the property where such are stored shall be permitted in all Districts.

F. All outdoor storage shall be located at least 25 feet from side and rear property lines.

G. Any outdoor storage that does not meet the above requirements shall require site plan approval from the Zoning Board of Appeals prior to the storage occurring. The Zoning Board of Appeals may condition such approval on suitable landscaping and screening to be provided in order to shield the outdoor storage from views of neighboring properties and public roads.

Section 8. **REQUIRED SCREENING:** A non-residential use shall provide sufficient fencing, screening or landscaping, maintained in good order, to obscure objectionable aspects of such use from view from adjoining residential properties and from the public right-of-way in a manner acceptable to the Zoning Board of Appeals.

Section 9. **FLAG LOTS:**

It is the policy of the Village of East Nassau to encourage maximum flexibility for development for purposes of protecting farmland, open space and/or enhancing rural character. Accordingly, in certain locations and with certain design it may be desirable to locate residences on rear lots without requiring compliance with otherwise applicable road frontage requirements. A flag lot is defined for purposes of this Section as a lot so shaped and designed that the main portion of the lot is set back from the public street or road on which it fronts, is situated behind one or more lots and is connected to such frontage road or street only by means of a relatively narrow strip of land. As such, in all land use districts flag lots may be permitted in minor and/or major subdivisions under the following conditions and requirements:

1. The only permitted use for a flag lot shall be single family residential but mobile homes are prohibited.
2. There shall be permitted only one (1) flag lot for every two (2) frontage lots to be created or existing.
3. Excluding the area of the flag access strip, the minimum acreage of the flag lot shall be at least one hundred twenty five percent (125%) of the minimum acreage required in the underlying Land Use District.
4. Excluding the flag access strip, the average lot depth to average lot width ratio shall not be greater than four to one (4:1).
5. The flag access strip of a flag lot shall be a minimum of fifty (50) feet wide throughout its length, and provide adequate and physically practical access from the lot to an public road. The flag access strip shall be part of, and contained in the deed for, the flag lot by fee simple title. Easements or right-of-ways establishing access to any flag lot over the flag access strip are prohibited.
6. No part of a flag access strip shall be used for any portion of an on-site septic system, nor any other improvement except a driveway and other permitted improvements such as landscaping, fencing, underground utility connections to off-site facilities, mailboxes, drainage, school bus shelter no greater than six (6) feet by six (6) feet, or signs.
7. The improved or paved portion of the driveway contained in the flag access strip shall be located at least ten (10) feet from any adjoining property line, and twenty (20) feet from any existing structures on the lot or any adjoining lot.
8. All public utility services to any flag lot shall be located underground. The Village Board may waive this requirement if site conditions, such a location of and depth to bedrock, render the underground placement of utilities impracticable or overly costly.
9. Any driveway constructed in the access strip to a flag lot shall be at least twelve (12) feet wide with adequate dimensions for vehicular backup, with adequate access for fire, police and emergency medical vehicles, so that vehicular ingress to and egress from the flag lot is in a forward direction.
10. The minimum setback requirements for each flag lot exclusive of the flag access strip shall be
 - a. Front Yard: One hundred (100) feet,
 - i. For purposes of determining front yard setbacks, the front yard shall the yard area lying between the principal structure and the public road from which access is obtained and the setback shall be measured from the closest rear yard property line of the abutting parcel or parcels.
 - b. Side Yard: One hundred (100) feet;
 - c. Rear Yard: One hundred (100) feet.
11. The street number of the principal structure situated on a flag lot shall be permanently and conspicuously displayed, on a sign with reflective lettering no less than four (4) inches in height, and placed the standard height and distance for a mailbox, as defined by the United States Postal Service, at or near the boundary line of the access strip and the adjoining public road.
12. Notwithstanding any provision of the Land Use and Development Regulations, no parcel within a flag lot subdivision shall become non-conforming because of the flag lot subdivision.

Section 10. **RESIDENTIAL CLUSTER DEVELOPMENT:** The Village Board is authorized, simultaneously with the approval of a plat or plats pursuant to Section 7-738 of Article 7 of the Village Law of the State of New York, to modify applicable provisions of this Local Law subject to the conditions set forth in said Section 7-738 and the following requirements:

- A. The average density throughout the subdivision shall not exceed the maximum density permissible in the Land Use District.
- B. No individual structure shall contain more than four (4) attached residential units.
- C. A homeowners association or similar mechanism for the long-term ownership and maintenance of common open space shall be provided, subject to approval of the Village Board.

Section 11. **SANITARY WASTE DISPOSAL SYSTEMS:** All systems for the disposal of human excreta shall strictly conform to all applicable State, County and Local Regulations, Laws and Ordinances and shall not be located in low, swampy areas, areas with a permanent, fluctuating or seasonal high water table, in areas with ledge rock or in areas subject to flooding. No part of a sanitary waste disposal system shall be located within one hundred (100) feet of the mean high water mark of any watercourse.

Section 12. **CLEARCUTTING:** To promote native vegetation, to reduce erosion, sedimentation, storm water runoff, the depletion of soil fertility and topsoil, and to encourage the maintenance of forest canopy in the Village, clear cutting as a forestry use or for any other purpose for which a permit or approval has not been first obtained is strictly prohibited.

Section 13. **ROADSIDE STANDS:** Roadside stands shall be permitted provided sale is restricted to non-alcoholic locally produced products. Adequate parking off the public right-of-way shall be provided and the structure shall be set back at least twenty (20) feet from the nearest roadway surface.

Section 14. **TELECOMMUNICATION TOWERS.**

A. Application of Special Use Regulations:

- (1) These regulations are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.
- (2) No transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit by the Village Board and site plan approval by the Zoning Board of Appeals and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
- (3) These regulations shall apply to all property within the Village. Pursuant to the Table of uses set forth in Article III of this law; telecommunication towers shall only be allowed in the Rural Residential zone as a special permit use and are prohibited in the Hamlet and Waterfront zones.
- (4) Exceptions to these regulations are limited to (i) new uses which are accessory to residential uses, (ii) lawful or approved uses existing prior to the effective date of these regulations, (iii) public safety operations, including but not limited to communications for the federal, county, state or municipal government, or ambulance or fire response operations, and (iv) satellite dishes and antennae used for residential purposes.
- (5) Where these regulations conflict with other laws and regulations of the Village, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.

B. Special Use Standards: The Village Board shall review the special use permit application in conjunction with the standards and procedures set forth in this section and in Article VI. In addition, the Zoning Board of Appeals shall review and approve a site plan. The special use permit application shall also include the submittal of a site plan and other information and documentation identified below and in Article VI.

(1)(a) Site Plan - An applicant shall be required to submit a site plan as described in Article VII . In addition to the requirements set forth in said Article, the site plan shall also show all existing and proposed structures and improvements including roads and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required. An applicant to construct a wireless telecommunications tower shall also present documentary evidence regarding the need for cellular antenna within the Village. This information shall identify the cellular network layout and coverage areas to demonstrate the need for such equipment within the Village.

(b) Additionally, the Zoning Board of Appeals shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the municipality as identified in the Visual EAF. The Zoning Board of Appeals may require submittal of a more detailed visual analysis based on the results of the Visual EAF.

(2)(a) Shared Use - At all times, shared use of existing towers shall be preferred to the construction of new towers. In order to minimize tower proliferation, applicants will be required to show that they have exhausted all possible avenues for sharing space on existing towers or existing antenna locations. Additionally, where such shared use is unavailable, location of antenna on pre-existing structures shall be considered. An applicant proposing to erect a new wireless telecommunications tower shall be required to present an adequate report inventorying existing towers and other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to a new construction. An applicant shall provide documentary evidence that a legitimate attempt has been made to locate the antenna on existing towers, buildings or other structures.

(b) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

(c) In the case of new towers, the applicant shall be required to submit a report identifying the location of all cellular towers within the operating range of the Village and adjacent municipalities and demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

(3) Setbacks - Telecommunication towers are not considered a primary use and may be erected on or in conjunction with any primary building or structure on the property provided the area and setback requirements are met as if such tower is a primary use. Towers and antennae shall comply with all existing setbacks within the affected zone. In addition, front, rear, and side yard setbacks shall be a minimum of one and a half (1 2) the height of the tower. Additional setbacks may be required by the Zoning Board of Appeals to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.

(4)(a) Visibility - All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

(b) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green , black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing structures except where such free-standing structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(c) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

(d) The height of a tower shall not exceed 120 feet, provided, however, that towers or other communication equipment may be erected only to such height as is necessary to accomplish the purpose they are intended to serve as demonstrated by the applicant.

(5) Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take

place prior to approval of the special permit use. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

(6) Screening - Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

(7) Access and Parking - A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.

C. Authority to Impose Conditions:

The Village Board and/or Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan.

(1) Removal Upon Abandonment: Such conditions may include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, including proof upon each anniversary of operation that the tower and facilities have not been abandoned for a period of six months or longer. Such conditions may also include the requirement of a bond (or other financial security) to be submitted to the Village at the time of final approval which shall remain in place for the life of the tower in a form approved by the Village Attorney to be submitted to the Village to cover the cost of dismantling and removal of towers and accessory facilities, if the applicant fails to do so upon abandonment.

Section 15. COMMERCIAL USES

A. General.

1. Exterior lighting proposed for the site shall be planned, erected, and maintained in such a manner that it will not cast direct light or glare upon adjacent properties or upon any public right-of-way. No light source shall be higher than twenty (20) feet. When used for security purposes or to illuminate walkways, roadways, driveways and parking areas, only fully shielded light fixtures shall be used. On-site lighting should be located to avoid glare which distract a motorist's line of sight. The luminaire shall emit no direct light above a horizontal plane through the lowest emitting part of the luminaire. Light fixtures used to illuminate signs, flags, statues or any other objects shall use a narrow cone beam of light that will not extend beyond the illuminated object. Direct light emissions shall not be visible above the roof line for any directed architectural, landscape or decorative lighting. Lighting plans may be required as part of site plan review and/or special use permit applications. The reviewing Board may, if it deems appropriate, require that lighting be controlled by automatic timing devices to extinguish offending sources of light during specified time periods such as when businesses are not in operation during that time period except for security lighting. Glare control shall be accomplished primarily through the proper selection and application of lighting fixtures and equipment. Only after those means have been exhausted shall vegetation, fences, and similar screening methods be considered acceptable for reducing glare.

2. Landscaping and/or fencing shall be provided to minimize any potential conflicts with adjacent uses.

3. Hours and intensity of operation shall not impact nearby properties.

4. Trash dumpsters and/or trash receptacles shall have closed lids and shall be located and placed in a screened and enclosed area on the site.

B. The minimum distance between any driveway and side lot line shall be thirty (30) feet. Where on-site parking is required or provided, the parking lot shall be set back at least thirty (30) feet from the road line and at least fifteen (15) feet from any rear or side lot line.

C. All commercial uses shall comply with the minimum general standards set forth in section 1 of this Article.

Section 16. **MOTOR HOME PARKS/CAMPGROUNDS.**

A. Park Location and Site Access

1. Each motor home park/campground shall have adequate access to a public road. All motor home or travel trailer sites shall be serviced from interior roadways.
2. Motor homes or travel trailers shall not be parked and used as a residence except as the residence of the owner/operator of the park.

B. Motor Home/Travel Trailer Sites

1. Motor home/travel trailer sites shall be located on generally level terrain which does not exceed eight percent (8%) slope, is well drained, is free of flood hazard, and is clear of dense brush.
2. The corners of each motor home/travel trailer site shall be clearly and permanently marked, and each lot shall be numbered for identification.

C. Minimum Site Area. Each overnight motor home/travel trailer site shall have an area of at least one thousand (1,000) square feet.

D. Setbacks and Spacing. All buildings and motor home/travel trailer sites shall have a setback of one hundred fifty (150) feet from the road line of all public roads with the setback area being substantially wooded and adequately landscaped to provide screening from all public roads.

E. Sewer, Water, and Public Facilities. Sewer and water facilities and other utilities shall be provided in accordance with the requirements of the New York State Building, Health and Sanitary Codes, and shall be subject to any other applicable Village requirements.

F. Recreation. A minimum of ten percent (10%) of the total area of the park/campground, excluding the required setback, shall be provided for recreation purposes and shall be fully maintained by the park owner. Such recreation area shall not be located within the required setback area.

G. Open space. A minimum of 10% of open space area shall be provided in addition to and not including the recreation area provided.

H. Responsibilities of Park Owner. The owner or manager of a motor home park/campground shall maintain an office in the immediate vicinity of the park and shall maintain accurate records, including: names and home addresses of park residents; make, description, year, and license or identification number of each motor home/travel trailer utilizing the park/campground. These records shall be available for review by any law enforcement official or the Code Enforcement Officer.

Section 17. **Outdoor Wood Boilers.**

A. Legislative intent.

Although outdoor wood boilers may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. Depending on the location of the wood boiler, its design and condition and its fuel, an outdoor wood boiler can create a nuisance as well as potential serious health and safety issues to neighbors and the public at large. This section is intended to ensure that outdoor wood boilers are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Village of East Nassau.

B. Standards and specifications. Any outdoor wood boiler installed after the effective date of these regulations shall comply with the design standards and specifications for outdoor wood boilers promulgated by the Federal Environmental Protection Agency and/or the State Department of Environmental Conservation that are in effect at the time of such installation.

C. Siting Guidelines. For purposes of issuance of the special permit, the following guidelines shall be considered by the Board of Trustees:

1. Location of outdoor boiler in relation to nearby residences.
2. The elevation of the chimney stack in relation to the elevation of nearby residences.
3. The location of the outdoor wood boiler and end height of the chimney stack should generally be at such a location and at a sufficient elevation so that smoke emissions are directed away from or above the windows of nearby residences.

D. Effect on other regulations.

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, Rensselaer County or any other federal, state, regional or local agency. Outdoor wood boilers, and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood boiler, shall be installed, operated and maintained in conformity with the manufacturer's specifications and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this section and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

ARTICLE VI: SPECIAL USE PERMIT:

All special permit uses specified in this Local Law shall be subject to approval by the Village Board, after referral to, and recommendation by, the Zoning Board of Appeals, in accordance with the standards and procedures included in this Article and in Section 7-725-b of the Village Law, and no Building Permit or Certificate of Compliance, Occupancy or Use shall be issued by the Code Enforcement Officer except upon authorization of and in full conformity with such approval by the Village Board. Uses requiring special permits are listed for each district on the Schedule of Uses in Article III of this Local Law. Accessory uses or structures used in connection with a special permit use shall be subject to the same special permit approval requirements as the principal structure or use.

Section 7-725-b of the Village Law is hereby superseded to the extent that said Section provides that the Village Board of Trustees authorize a planning board or other administrative agency to have jurisdiction over special permit review and approval and to the extent that said Section does not specifically provide for referral to, and recommendation by, the Zoning Board of Appeals. The Village Board hereby retains the authority to review and approve special use permits in accordance with this Article and the provisions of Section 7-725 of the Village Law excepting the provisions regarding delegation of authority from the Village Board to another Village administrative board.

Section 1. **GENERAL STANDARDS:** In reviewing any special permit use, the Village Board shall consider the health, safety, welfare, comfort and convenience of the public, in general, and that of the residents of the immediate neighborhood in particular, and the environmental impact, as well as the following standards:

A. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to its surroundings and existing or future access shall be in harmony with the orderly development of the district.

B. The location, nature and height of buildings, walls and fences, and the nature and intensity of intended operations shall not discourage the appropriate development and use of adjacent land and buildings nor impair the use or value thereof.

C. All parking and service areas shall be screened at all seasons of the year from the view of adjacent streets and residential lots and the landscaping of the site shall be in character with that prevailing in the neighborhood.

D. The character and appearance of the proposed use, building, structures and outdoor signs shall be in harmony and compatible with the character and appearance of the surrounding neighborhood and in accordance with the Village Comprehensive Plan.

Section 2. **CONDITIONS.** In executing their authority under this Article, the Zoning Board of Appeals may recommend, and the Village Board may require within its resolution of special use permit approval, such conditions and safeguards, as is appropriate to mitigate or address any potential impacts that may result from the proposed use .

Section 3. **ADDITIONAL SPECIFIC STANDARDS FOR CERTAIN USES:** In addition to the general standards, the following specific standards shall apply:

A. **MOTOR VEHICLE SERVICE STATION:**

1. No Motor Vehicle Service Station shall be located within two hundred (200) feet of any school, church, public library, theater, hospital, park, playground, body of water, or other public gathering place, the distance to be measured in a straight horizontal line between the nearest point of each lot.

2. The area for use by motor vehicles, except access drives thereto, as well as any structures or underground storage tanks, shall not encroach on any required yard setback areas.

3. No fuel pump shall be located within the required side or front yard setback areas.

4. The layout shall eliminate the necessity of any vehicle backing into a public right-of-way.

5. Entrance and exit driveways shall have an unrestricted width of not less than twelve (12) feet nor more than twenty (20) feet, subject to site plan review.

6. The outdoor storage of equipment, materials, supplies and parts shall be screened from adjacent lots and the public right-of-way.

7. Suitable year-round buffering and landscaping shall be provided in all rear and side yards.

8. Those establishments which sell gasoline in combination with a quick-stop retail food outlet shall also: (a) provide an enclosed trash dumpster for use by store employees and enclosed trash receptacles for customer use; (b) locate all vending machines inside or on the side of the building; and (c) direct all rooftop heating, ventilation, air conditioning, refrigeration and exhaust units and vents away from adjacent residential property.

9. Outdoor storage of more than 2 vehicles is prohibited unless screened from public views by fencing and/or landscaping and outdoor storage of more than 2 unregistered or junk vehicles and/or parts shall be prohibited.

B. **MULTIPLE FAMILY DWELLINGS:** Adequate private outdoor open space and common recreational areas shall be provided, with not less than five hundred (500) square feet per bedroom.

C. **WITHIN FLOOD HAZARD PROTECTION AREA:** Any development occurring within the flood hazard protection area established in the Village pursuant to the Flood Damage Prevention Law of 2007 of the Village of East Nassau (Local Law No. 1 of 2007 as was and may be amended from time to time) shall, in addition to the general standards, comply with the requirements and standards set forth in the Flood Damage Prevention Law and following additional standards. The stricter of the standards shall be complied with.

1. All structures shall be designed and anchored to prevent floatation, collapse or lateral movement due to flood related forces.

2. All construction materials and utility equipment shall be resistant to flood damage.

3. Construction practices and methods shall be employed which minimize potential flood damage.

4. All public utilities and facilities shall be located and constructed to minimize or eliminate potential flood damage.

5. Adequate drainage shall be provided to reduce exposure to flood hazards.
6. All water supply and sewage disposal systems shall be designed to minimize or eliminate floodwater infiltration or discharges into the floodwaters, including the provision that on-site sewage systems shall be located so as to avoid impairment of them or contamination from them during flooding.
7. All new construction or substantial improvements to existing structures shall have the lowest floor (including basement) elevated to at least one (1) foot above the water level of the one hundred (100) year flood boundary or, as an alternative for existing structures, be flood-proofed up to the same water level, including the attendant utility and sanitary facilities.
8. No use shall be permitted including excavation, stripping, grading or filling, unless the applicant has demonstrated that the proposed use in combination with all other existing and anticipated uses will not raise the water level of the one hundred (100) year flood boundary more than one (1) foot at any point.

Section 4. **SPECIAL PERMIT APPLICATION AND REVIEW PROCEDURE:**

A. Application Content: Since the type of special permit uses varies greatly, the information required to be submitted for a special permit may vary depending upon the scale, intensity, nature of the proposed use and its proposed location. An applicant for a special permit shall submit at least 1 original and 6 copies of the following together with whatever other information the Village Board deems appropriate:

1. Village of East Nassau Special Permit application form.
2. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision, and an agricultural data statement as defined below.
3. A narrative describing the proposed use and operation.
4. A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQRA Type I actions, but the Village Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal).
5. The application fee as established by the Village Board, and an escrow deposit for reimbursement of cost of Village consultants (if required).
6. The Village Board may waive or add any requirements for an application submission if it deems appropriate in order to accomplish the purposes set forth herein.

B. Applications Submission:

In order for a special permit application to be placed on the Village Board's meeting agenda, the required application materials shall be submitted to the Village Clerk at least 7 days prior to the date of the Village Board's meeting. It is recommended that before filing an application, the applicant should attend a Village Board meeting to discuss the nature of the proposed use and to determine the information that will need to be submitted. The purpose of this meeting is for the Applicant and the Board to informally discuss the proposal and the relevant issues involved before the Applicant expends significant time or money in application submittals. The applicant may schedule a pre-application conference by submitting a request for such conference in writing to the Village Clerk seven (7) days prior to the meeting at which the conference is requested to be scheduled. The request should identify the subject property, its owner and the proposed use.

At the first meeting at which an application is first presented as an agenda item, the Village Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Village Board shall notify the Applicant as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Village Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Village Board that the application is complete.

C. Application for Area Variance

Where a proposed special permit application contains one or more features which do not comply with the dimensional regulations of this Local Law, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to Article 10 without a decision or determination by the Code Enforcement Officer. The Village

Board shall decide whether such area variance application and Zoning Board of Appeals decision on same must occur as a condition to the issuance of the special permit, as a prerequisite for a complete special permit application, or in conjunction with the special permit process.

D. SEQRA Compliance

Upon receipt of application materials it deems complete, the Village Board shall initiate the New York State Environmental Quality Review (SEQRA) process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within twenty (20) days of its acceptance of a completed application, EAF and other supporting materials (if coordinated review is not undertaken). Where the proposed action may have a significant effect on the environment, the Village Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Zoning Law shall begin to run until either acceptance of a DEIS as satisfactory or the issuance of a negative declaration pursuant to the SEQRA regulations (6 NYCRR Part 617).

E. Required Referrals:

1. County. Upon receipt of application materials it deems to be complete, the Village Board shall refer to the Rensselaer County Bureau of Economic Development and Planning any application for a special permit affecting real property within 500 feet of the boundary of the Village of East Nassau, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right of way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, Sections 239l and 239m, as amended. No action shall be taken on applications referred to the County Bureau until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the complete application, unless the County and Village agree to an extension beyond the thirty (30) day requirement for the County Bureau's review. A majority-plus-one vote of the Village Board shall be required to grant any special permit which receives a recommendation of disapproval from the County because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

2. Village Zoning Board of Appeals. Upon receipt of application materials it deems to be complete, the Village Board may refer any application for a special permit to the Village Zoning Board of Appeals (ZBA) for its review and recommendation. If the Village Board opts to refer the matter to the ZBA, the ZBA shall have thirty (30) days in which to make a recommendation to the Village Board from the date of referral. The ZBA's recommendation shall be in writing and shall specify the reasons for its particular recommendation and may provide additional comments regarding any aspect of the application. The Village Board may, but need not follow, the ZBA's recommendation.

F. Notice and Hearing

1. The Village Board shall hold a public hearing on a complete special permit application within sixty-two (62) days from the determination of the Village Board that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Village Board.

2. At least five (5) days prior to the date of such hearing, the Village Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice thereof to all adjoining property owners and to any other property owners in the affected area that the Village Board may require to be notified.

3. Where the special permit application is for property located within five hundred (500) feet of an adjacent municipality, the Village Board, pursuant to General Municipal Law Section 239-nn, shall give notice of the public hearing to the clerk of the adjacent municipality by mail or electronic transmission at least ten (10) days prior to the hearing.

G. Action on Application: The Village Board shall grant, deny, or grant subject to conditions the application for a special permit within sixty-two (62) days after the close of the hearing. In granting a special permit, the Village Board may, where appropriate, impose such reasonable conditions and restrictions as are directly related to and

incidental to the proposed special use permit in order to protect the health, safety, and welfare of the Village and to achieve the purposes contained in this Zoning Law. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by the Village Code Enforcement Officer or by decisions of the Zoning Board of Appeals. These conditions may include, but need not be limited to, increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

Section 5. EFFECT OF SPECIAL USE PERMIT APPROVAL:

A.No Building Permit shall be issued for any structure covered by this Article until such special use permit has received Village Board approval and a copy of a resolution or decision to that effect has been received by the Code Enforcement Officer.

B.No Certificate of Occupancy or Use shall be issued for any structure or use of land covered by this Article until the structure is completed or the land developed in strict accordance with the Village Board resolution or decision on the special use permit and applicable requirements of this Local Law.

C.Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.

D.The Village Board may require in its decision of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Village Board that such conditions as may have been prescribed in conjunction with the issuance of said permit have not been or are no longer being complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the permit holder prior to revocation of the special use permit. The Village Board in its review of a previously issued special use permit may impose no new conditions.

E.A special permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the special permit (as determined by the Code Enforcement Officer in issuing a Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by special permit shall require the granting of a new special permit or a special permit amendment.

F. A special permit may be revoked by the Village Board if the permittee violates the conditions of the special permit or engages in any construction or alteration not authorized by the special permit.

Section 6. EXPIRATION OF SPECIAL USE PERMIT: A special use permit shall be deemed to authorize only one particular special permit use, and shall expire if the special permit use is not commenced and diligently pursued within six (6) months of the date of special use permit issuance or if the special permit use ceases for more than six (6) months for any reason.

Section 7. REIMBURSABLE COSTS: Reasonable costs incurred by the Village Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be added to the application fee. An applicant for any review, approval or permit prescribed by this section shall not be authorized to obtain the same without first making payment of the required fee therefor as established by the Village Board and/or depositing in a non-interest bearing escrow account, as established and maintained by the Village Board or the Village Board for review of any application made pursuant to this Article. An engineer, consultant or attorney designated by the Village Board or the Zoning Board of Appeals shall after appointment by the Village Board or the Zoning Board of Appeals and upon receipt of an application made pursuant to this section forward to the applicant thereof a review estimate setting forth the estimated cost of the engineering, consultants and/or legal review.

Section 8. **INTEGRATION OF PROCEDURES:** Whenever the particular circumstances of a proposed development require compliance with either another procedure in this Local Law, the requirements of any Village Land Subdivision Regulations or the requirements of the State Environmental Quality Review Act, the Village Board may integrate, as applicable and if it deems appropriate, site plan review as required by this Article with the procedural and submission requirements for such other compliance. In the case where any proposed use requires both a special use permit and site plan approval pursuant to Article III and any other provisions of the Law, the proposed site plan and site plan application shall not be complete, and the Zoning Board of Appeals shall not approve, disapprove or approve with modifications the site plan, until the Village Board has rendered its decision on the special use permit. The Zoning Board of Appeals shall not render a decision on the proposed site plan which is contrary or inconsistent with the Village Board's decision on the special use permit. The Zoning Board of Appeals shall integrate any conditions imposed by the Village Board as part of a special permit approval into its site plan decision. Nothing herein prohibits the Village Board and Zoning Board of Appeals from coordinating its respective jurisdictions and proceedings such as holding joint meetings or public hearings when appropriate.

Section 9. **AMENDMENTS:** The terms and conditions of any special permit may be amended in the same manner as required to grant a special permit, following the criteria and procedures in this Section. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a special permit amendment.

Section 10. **INTENT TO SUPERSEDE VILLAGE LAW**

To the extent that this Article is in conflict with the provisions of Village Law § 7-725-b in that the Village Board rather than a planning board shall have jurisdiction and authority to review special permit applications and to issue special permits, it is the intent of this Law to supersede said section to have the Village Board retain such administrative jurisdiction and authority as provided herein.

ARTICLE VII: SITE PLAN REVIEW:

Site plan approval is required for certain uses where site plan approval is required as part of the criteria for a special permit or where site plan approval is required standing alone as indicated on the Schedule of Uses. Where required, site plan approval must be obtained from the Zoning Board of Appeals pursuant to this Article prior to the issuance of a Building Permit, Zoning Permit, Certificate of Compliance, or Certificate of Occupancy or Use in any district.

Section 1. **SKETCH PLAN CONFERENCE:** A sketch plan conference between the Zoning Board of Appeals and the applicant may be held at the option of the applicant to discuss the applicability of the site plan review and approval procedure to the intended development for which the approval is sought. Although voluntary, the sketch plan conference is encouraged so that zoning requirements, issues and concerns may be discussed prior to the applicant incurring significant costs with respect to a proposed plan. The Zoning Board of Appeals shall identify its concerns and issues it wishes addresses during the site plan review of the project based upon the proposed project's scope and the basic land use and site design concept as shown by a sketch plan and accompanying statements provided by the applicant and describing in sufficient detail what is proposed. For multi-stage projects, all stages shall be presented. The applicant may schedule a sketch plan conference by submitting a request for such conference in writing to the Village Clerk seven (7) days prior to the meeting at which the conference is requested to be scheduled. The request should identify the subject property, its owner and the proposed use.

Section 2. **APPLICATION FOR SITE PLAN APPROVAL:**

A. Application Content: An application for Site Plan approval shall be made in writing to the Village Clerk and shall be accompanied by information drawn from the following checklist of items, as determined necessary by the Zoning Board of Appeals at the time of the Sketch Plan Conference, and certified by a licensed engineer, architect, landscape architect and/or land surveyor. The Zoning Board of Appeals may, at its discretion, waive the requirement that a Site Plan be prepared by a licensed professional provided that no grading, substantial drainage changes, oil and/or gas exploration, installation of a sanitary waste disposal system, building construction, road construction or special permit use is proposed.

SITE PLAN CHECKLIST:

Title of drawing and name and address of owner, applicant and person(s) responsible for preparation of such drawing;

north arrow, scale and date;

boundaries of the property plotted to scale and indication of acreage contained therein;

a map of site topography at no more than ten (10) feet contour intervals or if general site grades exceed five (5) percent or portions of the site have susceptibility to erosion, sedimentation, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than five (5) feet of elevation.

existing watercourses;

grading and integrated drainage plan, including erosion and sediment control measures, showing existing and proposed contours at an appropriate interval to be specified by the Zoning Board of Appeals at the Sketch Plan Conference;

location, proposed use and height of all structures;

location, design and construction materials of all parking and loading areas, with access and egress drives;

provision for pedestrian access;

location of outdoor storage;

location, design and construction materials of all existing or proposed site improvements;

description of the method of sewage disposal and location, design and construction materials of such facilities;

description of the method of securing water and location, design and construction materials of such facilities;

location of fire and other emergency zones including the location of fire hydrants;

location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

location, size, design and construction materials of all proposed signs;

location and proposed development of all buffer areas including indication of existing vegetative cover;

location and design of outdoor lighting;

designation of the amount of building area proposed for commercial activity so that the adequacy of parking and other factors may be reviewed;

general landscaping plan and planting schedule;

other elements integral to the proposed development as considered necessary by the Zoning Board of Appeals including identification of any Federal, State, County or Local permits required for the project's execution.

REQUIRED FEE: the applicable fee in accordance with the established fee schedule shall accompany an application for Site Plan review and approval.

B. Waivers. If the Zoning Board of Appeals finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information requirements as it deems appropriate. Any such waiver shall be made in writing, and shall contain statements of the reasons why the waived information

requirements are not necessary for an informed review under the circumstances. The Board may grant such waivers on its own initiative or at the written request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.

C. Submission: In order for a site plan matter to be placed on the Board's meeting agenda, the required application materials shall be submitted to the Village Clerk at least seven (7) days prior to the date of the Board's meeting. The application submittal shall include one (1) original and five (5) copies of all documents and plans.

D. Determination of Completeness: At the first meeting at which a site plan application is first presented as an agenda item, the Zoning Board of Appeals shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Board shall notify the applicant as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Zoning Board of Appeals that the application is complete. As such, the scheduling of a sketch plan conference may resolve confusion and thereby save time by allowing an opportunity for the applicant and the Board to identify what documentation will be expected in order to constitute a complete application.

Section 3. **ZONING BOARD REVIEW OF SITE PLAN:** The Zoning Board of Appeals review of a Site Plan shall include, as appropriate, but is not limited to, consideration of criteria or requirements set forth in this Zoning Law, the guidelines set forth in section -- below and the following general considerations:

GENERAL CONSIDERATIONS:

Adequacy of layout and design of vehicular and pedestrian access and circulation including intersections, road widths, pavement surfaces, traffic islands, medians or channelization structures, traffic controls, walkway structures and overall pedestrian convenience;

Adequacy of layout and design of off-street parking, loading, lighting, signs and general relationship with proposed structures;

Adequacy of storm water and drainage facilities, erosion and sediment control measures, water supply and sewage disposal facilities;

Adequacy of protection and preservation of the vegetation, topography, wildlife, aquatic life and other natural features of the site;

Adequacy of type and uses of trees, shrubbery and other landscape elements for aesthetic, screening or buffering purposes and the relationship with existing trees and vegetation, including the maximum retention of existing vegetation;

Adequacy of protection of adjacent properties from noise, glare, unsightliness, air quality degradation, or other objectionable features;

Adequacy of provisions for emergency vehicular zones and fire fighting access;

Location, arrangement, size, design and general site, neighborhood and historical compatibility of buildings, lighting and signs;

In the case of a multiple family dwelling, the adequacy of useable open space for play areas and informal recreation;

The adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, erosion and/or sedimentation.

Section 4. **PUBLIC HEARING:** The Zoning Board of Appeals may conduct a public hearing on the Site Plan if it deems such public hearing appropriate based on the factors involved in the application (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing. If the Board decides to hold a public hearing, it shall do so within sixty-two (62) days of

the date that the site plan application was determined by the Board to be complete and shall advertise said hearing in the official newspaper of the Village at least five (5) days before the public hearing, and provide notice to the applicant. Notice may be sent to adjacent property owners and to any other property owners in the area that the Zoning Board of Appeals deems appropriate. Where the site plan application is for property located within five hundred (500) feet of an adjacent municipality, the Board, pursuant to General Municipal Law Section 239-nn, shall give notice of the public hearing to the clerk of the adjacent municipality by mail or electronic transmission at least ten (10) days prior to the hearing. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Zoning Board of Appeals. The Zoning Board of Appeals shall additionally provide further notice and referral to the Rensselaer County Bureau of Budget, Research and Planning, if required.

Section 5. ZONING BOARD ACTION ON SITE PLAN: Within sixty-two (62) days of the close of a public hearing, or if no hearing is held, within sixty-two (62) days of the date that the site plan application was determined complete by the Board, the Zoning Board of Appeals shall act on the Site Plan by approving the Site Plan as submitted, approving the Site Plan with modifications and/or conditions, or disapproving the Site Plan. The Zoning Board of Appeals shall report in writing to the applicant and Code Enforcement Officer whether the Site Plan is approved, disapproved or approved with modifications. A copy of the appropriate minutes of the Zoning Board of Appeals shall be a sufficient report if the decision is set forth therein. The Board shall, where appropriate, impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by the Village Code Enforcement Officer.

Upon approval of the Site Plan and payment by the applicant of all fees and reimbursable costs due the Village, the Zoning Board of Appeals shall endorse its approval on a copy of the Site Plan and shall forward such copy to the Code Enforcement Officer. Upon disapproval of the Site Plan, the Zoning Board of Appeals shall so inform the applicant and the Code Enforcement Officer in writing of its decision and its reason for disapproval. A copy of the appropriate minutes of the Zoning Board of Appeals shall be a sufficient statement. A final decision of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant.

Section 6. REIMBURSABLE COSTS: Reasonable costs incurred by the Zoning Board of Appeals for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be added to the fee required. An applicant for any review, approval or permit prescribed by this section shall not be authorized to obtain the same without first making payment of the required fee therefor as established by the Village Board and/or depositing in a non-interest bearing escrow account, as established and maintained by the Village Board or the Zoning Board of Appeals for review of any application made pursuant to this Article. An engineer, consultant or attorney designated by the Village Board or the Zoning Board of Appeals shall after appointment by the Village Board or the Zoning Board of Appeals and upon receipt of an application made pursuant to this section forward to the applicant thereof a review estimate setting forth the estimated cost of the engineering, consultants and/or legal review.

Section 7. PERFORMANCE GUARANTEE: No Certificate of Occupancy or Certificate of Compliance shall be issued until all improvements shown on the Site Plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. Such performance guarantee, which shall be in the form of a bond, escrow deposit or irrevocable letter of credit, shall be posted in accordance with section 7-725-a(7) of the Village Law. The amount and sufficiency of such performance guarantee shall be determined by the Zoning Board of Appeals after consultation with the Village Attorney, the Code Enforcement Officer, other local officials or designated consultants. The amount, sufficiency and terms of such performance guarantee may include authorization and an amount sufficient for the Village to restore the property to its pre-development condition if the owner or developer abandons the project prior to the completion of the project. In such a circumstance, the Village shall have the option to complete the infrastructure improvements or to remove such improvements and restore the property to as close to its pre-development condition as is practicable.

Section 8. INSPECTION OF IMPROVEMENTS: The Code Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Village's private consultants and other local officials and agencies as may be appropriate. If the site is not being developed in strict compliance with the approved site plan and any conditions attached thereto, the Code Enforcement Officer shall issue a stop work order and demand compliance with the approved site plan and any conditions attached thereto. An approved site plan may not be modified except by the Zoning Board of Appeals upon application for such modification from the applicant.

Section 9. **INTEGRATION OF PROCEDURES:** Whenever the particular circumstances of a proposed development require compliance with either another procedure in this Local Law, the requirements of any Village Land Subdivision Regulations or the requirements of the State Environmental Quality Review Act, the Zoning Board of Appeals may integrate, as applicable and if it deems appropriate, site plan review as required by this Article with the procedural and submission requirements for such other compliance.

Section 10. **MODIFICATION OF TIME PERIODS:** Any period of time specified in this Article may be extended by mutual written consent of the applicant and the Zoning Board of Appeals.

Section 11. **APPLICATION FOR AREA VARIANCE:** Where a proposed Site Plan contains one or more features that do not comply with the dimensional regulations of this Local Law, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article 10 without a decision or determination by the Code Enforcement Officer. The Zoning Board of Appeals shall decide whether such area variance application and decision on same must occur as a condition to the site plan approval, as a prerequisite for a complete site plan application, or in conjunction with the site plan process.

Section 12. **SEQRA COMPLIANCE:** Upon receipt of application materials it deems complete, the Zoning Board of Appeals shall initiate the New York State Environmental Quality Review (SEQRA) process (unless the process has been already commenced pursuant to the special permit process for the same project) by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials (if coordinated review is not undertaken). Where the proposed action may have a significant effect on the environment, the Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Local Law shall begin to run until either acceptance of a DEIS or the issuance of a negative declaration pursuant to the SEQRA regulations.

Section 13. **INTENT TO SUPERSEDE VILLAGE LAW:** To the extent that this Article is in conflict with the provisions of Village Law § 7-725-a in that the Village Zoning Board of Appeals rather than a planning board shall have jurisdiction and authority to review special permit applications and to issue special permits, it is the intent of this Law to supersede said section to allow the Zoning Board of Appeals to have administrative jurisdiction and authority as provided in this Article.

Section 14. **SITE PLAN REVIEW GUIDELINES:** The Zoning Board of Appeals, in reviewing non-residential site plans, shall consider the guidelines set forth below.

A. Layout and Design

1. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Village of East Nassau.
2. Individual structures on the site should be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement.
3. Where feasible, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
4. The Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.

B. Landscaping

1. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
2. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Village's environment.
3. Where feasible, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
4. If deemed appropriate for the site by the Board, shade trees at least six feet tall shall be planted and maintained at twenty-five to fifty (25-50) foot intervals along roads, at a setback distance acceptable to the Village Public Works Superintendent.

C. Parking, Circulation, and Loading

1. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
2. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Board, where appropriate.
3. Offstreet parking and loading requirements of this Zoning Law shall be complied with, and parking areas shall be located behind buildings wherever possible.
4. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
5. All structures shall be accessible by emergency vehicles.

D. Miscellaneous Standards

1. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
2. The site lighting shall limit glare on adjacent roads and properties.
3. Drainage of the site shall recharge ground water to the extent practical. Surface waters flowing off-site shall not degrade any streams or adversely affect drainage on adjacent properties or public roads.
4. Dispersal of construction and demolition wastes shall meet all applicable local, county, state, and federal requirements.
5. Provisions for long term management of trash and other waste products.

E. Reservation of Parkland

For any site plan containing residential units, the Board may require the reservation of parkland or payment of a recreation fee pursuant to Village, Section 274-a(6).

ARTICLE VIII: NONCONFORMITY.

Section 1. **INTENT.**

The intent of this Article is to recognize certain uses, lots of record and structures which legally existed at the time of enactment or subsequent amendment of this law and which would be prohibited or unreasonably restricted by the provisions set forth in this law.

Section 2. **NONCONFORMING USES.**

Any use of land or use of a structure, lawfully existing prior to the adoption or subsequent amendment of this law, which is made nonconforming by the adoption or subsequent amendment of this law may be continued to the extent existing at the time of such adoption or amendment provided that:

A.No nonconforming use shall be enlarged, expanded, extended, or otherwise increased in size or intensity so as to occupy or utilize a greater area of land than was committed to the nonconforming use at the time of such adoption or amendment;

B.No nonconforming use shall be moved, transferred, or otherwise relocated to a different structure or area of land than was occupied at the time of such adoption or amendment;

C.Any nonconforming use which has, for any reason, been discontinued for a period of one year, shall not be reestablished and only conforming uses shall be thereafter permitted;

D. Once changed to a conforming use, no structure, building or land shall revert to a nonconforming use; and

E. A nonconforming use shall not be changed to another nonconforming use.

Section 3. NONCONFORMING LOTS OF RECORD.

A. Any lot of record held under separate ownership from adjoining lots, and lawfully existing, prior to the adoption of this law may be developed with any allowable use listed for the zoning district in which said lot is located, notwithstanding that the area, width, depth or other area or dimensional aspects of said lot are less than the minimum area or dimensional requirements set forth in this law or subsequent amendment of same provided that such lot has sufficient width, depth and area to undertake development that will:

1. Meet or exceed at least two-thirds (2/3) of the required minimum front, side and rear yard setbacks;
2. Not exceed the maximum permitted lot coverage;
3. The lot is able to sustain on-site water and sanitary septic systems; and
4. The lot is able to otherwise satisfy all applicable provisions of this law and other applicable laws.

B. A nonconforming lot may be subdivided only if each and every parcel resulting from said subdivision is annexed to or joined with one or more adjoining lots so that no new building lot is created.

Section 4. NONCONFORMING STRUCTURES.

A. A structure, in lawful existence prior to the adoption or subsequent amendment of this law which by the adoption or amendment of this law is made nonconforming, may be used for any allowable use listed for the zoning district in which the structure and property is located provided that such structure shall not be enlarged or altered so as to increase its nonconformity in terms of dimensional or area requirements.

B. Nothing under the provisions of this law shall prevent the repair, restoration, or reconstruction of a nonconforming structure damaged by fire or other hazard provided that such repair, restoration, or reconstruction is undertaken within one year from the date on which the damage or destruction occurred and only to the extent previously occupied by the nonconforming structure.

C. No nonconforming structure shall be moved or otherwise relocated so as to occupy a different area of the lot or land than was occupied by the structure at the time of the adoption or subsequent amendment of this law unless a new location would be more conforming in terms of minimum dimensional or area requirements of this law or subsequent amendment thereof.

ARTICLE IX: ADMINISTRATION AND ENFORCEMENT:

Section 1. CODE ENFORCEMENT OFFICER

This Zoning Law shall be administered by the Code Enforcement Officer together with the Village Board and Zoning Board of Appeals depending on the appropriate jurisdiction pursuant to this Law. Compliance with this Law shall be enforced by the Code Enforcement Officer.

Section 2. GENERAL PROVISIONS

No person shall undertake any development or commence any land use activity without first applying for, and obtaining, a zoning permit from the Code Enforcement Officer unless otherwise exempt pursuant to this Zoning Law and/or the Village of East Nassau Subdivision Regulations. A zoning permit will be issued only when the Code Enforcement Officer has determined that all requirements of this Local Law and all other applicable laws and regulations have been satisfied.

Section 3 APPLICATION PROCEDURE

A. Meeting with Code Enforcement Officer

Any person intending to engage in an activity that may be subject to this Zoning Law and/or the Village of East Nassau Subdivision Regulations should meet with the Code Enforcement Officer as early as possible to determine which, if any, permits or approvals may be required and what review procedures, if any, apply.

B. Filing Application for Zoning Permit

A person desiring a zoning permit shall file an application for a zoning permit with the Code Enforcement Officer, together with the appropriate fee. The application shall be submitted on forms provided for such purpose by the Code Enforcement Officer, and shall include a plot plan drawn to scale showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this Local Law. Within ten (10) working days following receipt of an application, the Code Enforcement Officer shall notify the applicant of any additional information required for completion of the application. If no such notice is timely given, then the application shall be deemed complete as filed. When all additional information is received, the Code Enforcement Officer shall acknowledge the same in writing.

C. Determination

Not later than ten (10) working days after receiving a completed application, the Code Enforcement Officer shall mail or deliver to the applicant the determination that either:

1. The proposed project or activity complies with the requirements of this Zoning Law and all other applicable and Local Laws and regulations and requires no other approvals, other than a building permit, and accordingly a zoning permit is issued; or

2. The proposed project or activity is inconsistent with one or more specified requirements of the Village of East Nassau Zoning Law or other applicable Local Law or regulation, and a zoning permit is denied; or

3. The proposed project requires one or more specified approvals before a project permit can be granted. (The proposed project may, for example, be for a use allowable by special permit and/or site plan approval, requiring approval of a special permit by the Village Board and/or approval of a site plan by the Zoning Board of Appeals); or

4. Note that any decision of the Code Enforcement Officer may be appealed to the Zoning Board of Appeals, or a variance may be sought from the Zoning Board of Appeals pursuant to Article 10 below.

D. CEO Consultation

The Code Enforcement Officer will advise the applicant of the requirements for the special approvals needed, and shall provide information when requested in the preparation of the required application. When the required approvals have been obtained, and all other legal and regulatory requirements have been satisfied, the Code Enforcement Officer shall issue a zoning permit.

E. Issuance and Posting

All zoning permits shall be issued in duplicate and one copy shall be kept by the applicant conspicuously on the premises affected at all times (protected from the weather, if necessary, and whenever construction work is being performed thereon). In issuing a zoning permit, the Code Enforcement Officer shall sign, date, and return one copy of the approved plans bearing the notation "Approved." No person shall perform any construction or otherwise undertake a project requiring a permit unless a zoning permit for such project is displayed as set forth above, nor shall any person perform such activities after notification of the revocation of a zoning permit.

F. Revocation

If the Code Enforcement Officer determines that an application or accompanying plans are in any material respect false or misleading, or that work being done upon the premises differs materially from what is allowed by the zoning permit, the Code Enforcement Officer may forthwith revoke the zoning permit. The permittee shall thereupon cease the use, activity, or construction, and surrender the zoning permit to the Code Enforcement Officer.

G. Lapse and Renewal

A zoning permit shall lapse one (1) year following the date it was granted if the project has not been commenced or the use has not been commenced. The Code Enforcement Officer may renew any zoning permit for a period terminating not later than one year from the date it would have originally lapsed, provided that the facts upon which the zoning permit was granted have not substantially changed.

Section 4 **SITE INSPECTION**

The submission of an application for a zoning permit, or for any other approval or variance, shall constitute consent to the Code Enforcement Officer and to members or designates of the boards with authority to grant the required approvals or variance to conduct such inspections of the site as such persons deem necessary and appropriate for the purposes of this Local Law.

Section 5 **CERTIFICATE OF COMPLIANCE**

No use for which a zoning permit was granted shall be occupied or maintained except pursuant to a certificate of compliance issued by the Code Enforcement Officer. The Code Enforcement Officer, within 10 working days after receipt of request for inspection of a project or operation of a use for which a zoning permit has been issued, shall inspect and issue a certificate of compliance if the project has been completed, or the use is being operated in compliance with all terms of the zoning permit and with all applicable provisions of this Local Law and other laws and regulations including any approvals issued by the Zoning Board of Appeals and/or Village Board, if applicable. Such certificate shall constitute a permit to occupy and/or conduct the use. If the project involves the construction of a building or structure, a building permit and certificate of occupancy must also be issued by the Code Enforcement Officer before the building or structure can be occupied.

Section 6 **VIOLATIONS**

Whenever a violation of this Law occurs, the Code Enforcement Officer may enforce compliance to remedy the violation or any person may file a written complaint requesting enforcement action by the Code Enforcement Officer. All such complaints shall be made to the Code Enforcement Officer who shall properly record such complaint and immediately investigate and report findings thereon to the Village Board. The Code Enforcement Officer shall have authority to serve an order to cease or remove a violation upon any person owning, leasing, controlling or managing any building, structure, or land. The undertaking of a land use or development for which a zoning permit is required, or the construction of any improvement in a manner that materially deviates from an approved plan and the violation of any condition imposed by a zoning permit, certificate of compliance, special permit, site plan, variance, or subdivision approval shall constitute a violation of this Local Law.

A. **Penalty**

1. Any person owning, leasing, managing or otherwise controlling any building, structure, or land where a violation of this Local Law occurs and any person who commits or assists in the commission of any violation of this Local Law who, after being served with an order to cease or remove such violation, fails to comply with such order within ten (10) days after such service, shall be guilty of an offense and subject to a fine as authorized in Section 7-714 of the Village Law. Each week such violation continues shall constitute a separate violation. The Code Enforcement Officer has the authority under this law and the Village Law to prosecute any such violations in the Town of Nassau Justice Court.

2. In addition to the penalties in Subsection (A) above, any person who violates any provision of this Local Law shall, for every such violation, forfeit and pay a civil penalty of not more than one hundred dollars (\$100.00). When a violation of any of the provisions of this Law is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty. The Code Enforcement Officer has the authority under this law to commence a civil action in order to obtain a civil penalty under this provision in the Town of Nassau Justice Court. To the extent that this provision is inconsistent with the Village Law of the State of New York, section -7-714, the Village Board of Trustees of the Village of East Nassau hereby declares its intent to supersede said section of the Village Law, pursuant to its home rule powers under the Municipal Home Rule Law, Article 2, Section 10, et. seq. of the Consolidated Laws of the State of New York.

For the purposes of this Section, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

The methods of enforcement as set forth in paragraphs A1 and A2 above, as well as paragraph B below, are not exclusive and may be utilized together, alternatively, repeatedly or in any combination thereof until compliance is obtained and the violation is abated. Abatement of the violation does not preclude the exaction of a penalty, fine or collection of attorney's fees and costs and such other relief a court may order.

B. Injunctive Relief

In case of any violation or threatened violation of any of the provisions of this Local Law, or conditions imposed in any project permit or certificate of compliance, the Village may, by resolution of the Village Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation. As part of such action, the Village may request the Court for an order that requires the violator to reimburse the Village for the costs, including the attorney fees, incurred with respect to the action for injunctive relief.

Section 7 MISREPRESENTATION

Any zoning permit or other approval granted under this Local Law shall be void if it is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known.

Section 8 FEES

The Village Board, by resolution, shall establish and amend (from time to time) a schedule of fees for the applications and permits required or contemplated by this Local Law. The current schedule shall be on file with the Code Enforcement Officer and with the Village Clerk. Such fees shall be payable to the Village Clerk of the Village of East Nassau at the time of application or, as appropriate, at the time of issuance of a permit. In certain instances where the reviewing Board deems the application, or any aspect thereof, requires a legal, engineering, planning or other professional consultant to assist the reviewing Board, said Board may require as part of the fee, a deposit in an amount sufficient to reimburse the Village for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s). The Village shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Village with detailed invoices showing the services rendered for the time-period billed and the Village shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues. Any deposit amounts that remain at the end of the process shall be returned to the applicant.

ARTICLE X: ZONING BOARD OF APPEALS:

Section 1. CREATION. A Zoning Board of Appeals is hereby created pursuant to Section 7-712 of Village Law. The Zoning Board of Appeals shall prescribe rules for the conduct of its affairs pursuant to section 7-712-a of Village Law.

Section 2. POWERS AND DUTIES. The Zoning Board of Appeals shall have all the power and duties prescribed by Sections 7-712, 7-712-a, 7-712-b of Village Law and by this Law, which include the following:

A.. Interpretations. Upon appeal from a decision by the Code Enforcement Officer, to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zoning district boundary.

B. Variances. To vary or adapt the strict application of any of the requirements of this law with respect to use variances and/or area variances as such terms are defined in section 7-712-a of Village Law. In granting any such variance, the Zoning Board of Appeals shall follow the tests prescribed in section 7-712-b of Village Law. The Zoning Board of Appeals may also prescribe any conditions to an area variance and/or use variance that it deems necessary or desirable pursuant to the guidance set forth in section 7-712-b of Village Law.

C. Site Plan Approvals. To approve, disapprove or approve with modifications site plans in accordance with Article VII of this Law and section 7-725-a of the Village Law.

D. Referrals/recommendations. To review and provide a recommendation, if required, with respect to any matter or application referred to it pursuant to the provisions of this Law.

Section 3. PROCEDURE.

A. The Zoning Board of Appeals shall conform to the procedures set forth in section 7-712-a of Village Law with respect matters within its appellate jurisdiction and Article VII of this Law and section 7-725-a of the Village Law with respect to its original jurisdiction over site plan approvals.

B. The Zoning Board of Appeals may also adopt its own rules of procedure to govern the review of appeals and applications and the conduct of its business. At a minimum, all applications made to the Zoning Board of Appeals shall be in writing and on a form prescribed by the Zoning Board of Appeals and provided by the Village Clerk. Every application shall refer to the specific provisions of the law or action being appealed and shall exactly set forth the interpretation that is claimed, the use for which the variance is sought, or the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be. The Zoning Board of Appeals may require additional information which it deems necessary for adequate review and evaluation of the interpretation, variance, or appeal being sought.

C. A hearing shall be held for all appeals, in conformance with the requirements of Village Law section 7-712-a. The Zoning Board of Appeals shall schedule and hold a public hearing on the appeal or other matter referred to it within sixty-two (62) days of the date that the application for the appeal is considered complete by the Zoning Board of Appeals and give public notice of such hearing by publication in a paper of general circulation in the Village at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals prior to the hearing of such appeal. a use variance application is for property located within five hundred (500) feet of an adjacent municipality, the Zoning Board of Appeals, pursuant to General Municipal Law Section 239-nn, shall give notice of the public hearing to the clerk of the adjacent municipality by mail or electronic transmission at least ten (10) days prior to the hearing. Every decision of the Zoning Board of Appeals shall contain a full description of reasons for granting or denying the appeal and shall immediately be filed in the office of the Village Clerk and copies thereof mailed to the applicant and to the Code Enforcement Officer. The reasons for the Zoning Board of Appeals' action shall be set forth in the minutes of the Zoning Board of Appeals meeting at which the action was taken. Each member's vote shall be recorded.

D. Every rule, regulation, amendment or repeal thereof, and order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the Office of the Village Clerk and shall be a public record.

Section 4. **REQUIRED REFERRAL:** A full statement of any appeal that meets the referral requirements of Sections 239 (1) and (m) of the General Municipal Law shall also be referred prior to the public hearing to the Rensselaer County Bureau of Economic Development and Planning for its review. Such actions shall include those which affect property located within five hundred (500) feet of the following:

Municipal boundary;

Boundary of any existing or proposed county or state park or other recreation area;

Right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;

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;

Farm operation existing in an Agricultural District;

Existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

No action shall be taken by the Zoning Board of Appeals on such appeal until an advisory recommendation has been received from said Rensselaer County Bureau of Economic Development and Planning or thirty (30) calendar days have elapsed since said County Bureau was sent such full statement.

Section 5.. **DECISIONS:** Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by said Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of said Board with each such decision being filed in the Office of the Village Clerk within five (5) business days thereof. The Zoning Board of Appeals shall also notify the Code Enforcement Officer, the Secretary of the Zoning Board of Appeals and any affected municipality given notice of hearing of its decision in each case. If applicable, a report on the action taken

shall also be filed within seven (7) calendar days of said action with the Rensselaer County Bureau of Economic Development and Planning.

Section 6. **ATTACHMENT OF CONDITIONS:** In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Local Law, it shall be the duty of said Board to attach such conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this Local Law and with section 7-712-b of the Village Law.

Section 7. **EXPIRATION OF APPROVAL:** Unless construction or use is commenced and diligently pursued within one (1) calendar year from the date of the granting of a variance, such variance shall become null and void without further hearing by the Zoning Board of Appeals.

Section 8. **STRICT CONSTRUCTION:** All the provisions of this Local Law relating to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals as a body of limited jurisdiction shall act in full compliance with all limitations contained herein provided, however, that if the procedural requirements set forth in this Local Law have been substantially observed through good faith efforts no applicant shall be deprived of the right of appeal.

Section 9. **MODIFICATION OF TIME PERIODS:** Any period of time specified in this Article may be extended by mutual written consent of the applicant and the Zoning Board of Appeals.

Section 10. **RELIEF FROM DECISIONS:** Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the decision of the Zoning Board of Appeals in the Office of the Village Clerk.

ARTICLE XI: AMENDMENTS:

This Local Law or any part thereof, including the Land Use District Map, may be amended, supplemented or repealed by the Village Board as provided by Sections 7-704, 7-706 and 7-708 of the Village Law.

Section 1. **INITIATION:** An amendment to this Local Law may be initiated in one of three ways:

A. By the Village Board upon its own motion;

B. By resolution of the Zoning Board of Appeals, filed with the Village Clerk, wherein certain changes to or repeal of specific provisions of this Local Law are recommended, in which case the Village Board shall act on the proposed amendment within ninety (90) days of the time such resolution is filed.

C. A property owner may apply for amendment to this Zoning Law with respect to changing the zoning classification of his or her property or the schedule of uses as applied to his or her property by filing one original and five complete copies of an application with the Village Clerk. The application shall include a petition requesting the Village Board to amend a particular provision or provisions of this Zoning Law and/or the Land Use District Map, a description of requested amendment, identification and description of the property or properties affected, a map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and the applicable filing fee. In the case of a requested amendment that does not apply to an amendment of the Land Use District Map or otherwise affecting specific properties, no properties need be identified as affected. The Village Board has complete discretion on whether to act upon such request.

Section 2. **REPORT OF THE ZONING BOARD OF APPEALS:** All proposed amendments, supplements or changes originating by petition or by motion of the Village Board shall be referred to the Zoning Board of Appeals for a report and recommendations. The Zoning Board of Appeals shall submit its report within forty-five (45) days after receiving such referral. Failure of the Zoning Board of Appeals to report within the required time shall be deemed to be a recommendation of approval.

Section 3. VILLAGE BOARD PROCEDURE:

A. PUBLIC NOTICE AND HEARING: The Village Board shall fix the time and place of a public hearing on the proposed amendment(s) and provide notice thereof as follows:

1. By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Village and on the Village web site specifying:

- a. the nature of the proposed amendment(s);
- b. the land or district(s) affected;
- c. the date, time and place where the public hearing shall take place

2. By providing a copy of such notice of any proposed change or amendment affecting property within five hundred (500) feet of any other municipality to the Clerk of such municipality at least ten (10) calendar days prior to the date of such public hearing.

B. REQUIRED REFERRAL: The Village Board shall transmit a full statement of any proposed amendment(s) that meets the referral requirements of Sections 239 (1) and (m) of the General Municipal Law to the Rensselaer County Bureau of Budget, Research and Planning for its review and recommendations. No action shall be taken by the Village Board on such proposed amendment until a recommendation has been received from said Bureau or thirty (30) calendar days have elapsed since said Bureau received such full statement.

C. COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT: Proposed amendments are actions subject to the provisions of the New York State Environmental Quality Review Act. Prior to formal consideration and public hearing, the Village Board shall make a determination as to the type of action, lead agency status and environmental significance of the proposal in accordance with Part 617 of Article 8 of the Environmental Conservation Law.

D. VILLAGE BOARD ACTION: The Village Board may approve any such proposed amendment(s) by a majority vote except that a favorable vote of a majority plus one shall be required if:

1. the action being taken is contrary to the advisory recommendation received from the Rensselaer County Bureau of Budget, Research and Planning under the provisions of Section 239 (1) and (m) of the General Municipal Law;
2. in accordance with the provisions of Section 7-708 of the Village Law, a protest against such amendment has been duly signed and acknowledged by the owners of at least twenty (20) percent of the land area included in such proposed amendment of that immediately adjacent extending one hundred (100) feet therefrom or that directly opposite.

ARTICLE XII: DEFINITIONS

For the purpose of this Local Law, certain words and phrases are defined. Words and phrases that are not defined shall be given their usual meanings except where the context clearly indicates a different or specific meaning.

Words used in the present tense shall include the future; the singular includes the plural and the plural includes the singular; the word “dwelling” includes the word “residence”; the word “shall” is mandatory and not permissive.

ACCESSORY FACILITY OR STRUCTURE - An accessory facility or structure serves the principal use, is incidental and subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

ACCESSORY USE: A use, occupancy or tenancy that is customarily incidental to, subordinate to and in character with the principal use, occupancy or tenancy and located on the same lot or premises.

AGRICULTURE: The raising of crops, animals or animal products or any related activity.

ALTERATION: Any change, rearrangement or addition to a building, other than repairs; any modification in construction, or in building equipment, or the moving of a building or structure from one location to another.

ANIMAL HOSPITAL: Premises for medical and/or surgical care of sick or injured animals with or without accessory boarding accommodations for convalescence. The term Animal Hospital shall include Veterinary Clinic.

ANTENNA - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and wireless and microwave communications. The frequency of these waves generally range from 10 hertz to 300,000 megahertz.

AREA AND BULK REGULATIONS: The combination of controls that establish the minimum size of a lot and the maximum size of a building and its location on such lot.

BED AND BREAKFAST: An owner-occupied dwelling used for renting accommodations to transient, fee-paying guests and providing not more than one meal daily to guests only. Not more than five (5) rooms may be let.

BEST MANAGEMENT PRACTICES: The most environmentally, socially and economically appropriate measures that can be applied to control a non-point source water quality problem.

BOARDING, LODGING OR ROOMING HOUSE: A private dwelling in which at least two but not more than six rooms are offered for rent whether or not table board is furnished to lodgers and no public restaurant is maintained.

BUILDING: A structure that is affixed to the land and is designed or intended for use as a shelter of persons, animals, property or business activity.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is located.

CAMP: Premises which provide temporary, seasonal accommodations for compensation to transient guests. The term camp shall include premises commonly called colonies or bungalows, cabins or cottages for tourists, premises used for recreational assembly of persons and commonly called day, resort or summer camps, and premises used for parking or location of tents and other portable shelters and commonly called campgrounds.

CAMPGROUND: See Motor Home Park.

CEMETERY: Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbiums, crematories, mausoleums and mortuaries when operated with and within the boundary of such cemetery.

CERTIFICATE OF COMPLIANCE: Official certification that a plan for development or land use conforms to the provisions of the land use regulations.

CERTIFICATE OF OCCUPANCY OR USE: Official certifications that a premise conforms to the provisions of the land use regulations, building code and other applicable regulations, and may be legally used or occupied.

CHANNEL: A watercourse with a definite bed and banks which confines and conducts, continuously or intermittently, flowing water.

CLEARCUTTING: Any cutting of trees one (1) inch or more in diameter measured at four and one-half (4.5) feet above ground which results in a residual density of trees of less than thirty (30) square feet per acre of the area that is cleared. Residual density shall be determined by calculating the sum of the cross-section areas of all trees two (2) or more inches in diameter measured at four and one-half (4.5) feet above ground.

CLUSTER DEVELOPMENT: A development pattern in which uses are grouped or clustered within a particular development rather than spread evenly throughout a parcel as in conventional lot-by-lot development.

CODE ENFORCEMENT OFFICER: The Village employee appointed by the Village Board charged with the responsibility of administering and enforcing this Local Law as well as the New York State Building Code and related regulations. Also referred to as CEO.

COMMERCIAL EXCAVATION: Any activity or use of land that involves or proposes to involve from a parcel of land (or contiguous parcels of land) the extraction, excavation, stripping, grading or filling of mineral resources (including but not limited to sand, gravel, rock, stone or soil) from the earth in an amount more than, or for uses other than, that set forth in ARTICLE V, Section 5 (B). **COMMERCIAL EXCAVATION** is prohibited in all land use districts throughout the Village of East Nassau.

CONSERVATION: The protection or management of land in a natural state including the management practices.

CORNER LOT: A lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street where such streets or parts of the same street form an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street right-of-way lines is the corner.

CULVERT: A pipe, conduit or similar enclosed structure including appurtenant works that carries surface water.

DAY CARE CENTER: A private establishment with no more than 4 staff members enrolling four (4) or more children and where tuition, fees, or other forms of compensation for the care of children is received, and which is licensed or approved to be used as a child care center.

DENSITY: The ratio of lot area per family or dwelling unit on a lot.

DEVELOPMENT: The establishment of a use on a lot or in relation to a structure, or the erecting or structural alteration of a structure, or any land disturbance in relation to establishing a use or a structure.

DISTRICT OR LAND USE DISTRICT: An area, section or zone of the Village within which uniform requirements regulate the use of land and the height, bulk, density and setback of structures.

DRAINAGE: The gravitational movement of water or other liquids by surface runoff or subsurface flow.

DRAINAGE WAY: Any watercourse, trench, ditch, depression or other hollow space in the ground, natural or artificial, which collects or disperses surface water from land.

DUMPSTER: large container or receptacle for trash and garbage that are moved and emptied by hoisting units on garbage trucks.

DWELLING: A building or part of a building designed or used principally as the living quarters for one or more families.

DWELLING, ONE FAMILY: A detached building containing one dwelling unit only.

DWELLING, TWO FAMILY: A detached or semi-detached building containing two dwelling units only.

DWELLING, MULTIPLE: A detached, semi-detached or attached building or portion of a building containing three or four dwelling units. The term multiple dwelling shall be deemed to include apartment house.

DWELLING UNIT: A building or entirely self-contained portion of a building containing complete housekeeping facilities for only one family including any domestic servants employed on the premises and having no enclosed space other than vestibules, entrances or other hallways or porches, or cooking or sanitary facilities in common with any other dwelling unit. A boarding house, dormitory, motel, inn, nursing home or other similar building shall not be deemed to constitute a dwelling unit.

EROSION: The wearing away of the land surface by action of wind, water, gravity or other natural forces.

EXCAVATION/MINING: Any activity or use of land that involves or proposes to involve from a parcel of land (or contiguous parcels of land) the extraction, excavation, stripping, grading or filling of mineral resources (including but not limited to sand, gravel, rock, stone or soil) from the earth. All EXCAVATION/MINING activities or uses are prohibited in all land use districts throughout the Village of East Nassau except for those set forth in ARTICLE V, Section 5 (B).

FAMILY: One or more than one person occupying a dwelling unit and living as a single non-profit housekeeping unit with not more than four (4) roomers, boarders or lodgers. A roomer, lodger or boarder residing with a family shall mean a person or group of persons residing within a household not related by blood, marriage or adoption to the non-profit housekeeping unit who pay a valuable consideration for such residence and who do not occupy such space within the house hold as an incident of employment therein.

FARM: A parcel of land used principally in the commercial raising or production of agricultural products and the necessary or usually dwellings, farm structures, storage and equipment. Agricultural products shall include but are not limited to field crops, vegetable crops, fruit, livestock and livestock products and fowl. It excludes kennels and stables used by the public.

FILLING: Any activity that deposits natural or artificial material so as to modify the surface or subsurface conditions of land or watercourses.

FINANCIAL ASSURANCE: The reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow or irrevocable line of credit.

FIREWOOD — Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter. Such wood shall be properly seasoned and dry prior to burning.

FLAG ACCESS STRIP: The strip of land which is part of a flag lot and which provides access from the public road to the main part of the flag lot where the dwelling is or will be located.

FLAG LOT: A lot so shaped and designed that the main portion of the lot is set back from the public road on which it fronts, is situated behind one (1) or more lots and is connected to said frontage public road only by means of a relatively narrow strip of land ("Flag Access strip").

FORESTRY USE: Any management, including logging of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skid ways, landings, fences and forest drainage systems.

FREE FLOWING: To exist or flow in a natural condition without impoundment, diversion, straightening or other modification.

FRONTAGE: That edge of a lot bordering a street, the horizontal distance between side lot lines measured along the street line.

GARAGE, PUBLIC: A building or part of a building used only for the storage, rental, selling, greasing, washing, servicing or repair of motor driven vehicles and operated for gain.

GARAGE, STORAGE: A building or part of a building used only for the storage of vehicles for compensation and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

GRADING: The alteration of the surface or subsurface conditions of land or watercourses by excavation or filling so as to change the existing land forms.

GROUP LIVING FACILITY: A dwelling for a number of persons, usually unrelated, containing sleeping rooms without separate cooking facilities, usually associated with an educational or service institution.

HEIGHT, BUILDING: The vertical distance measured from the average elevation of the finished grade along the side of the building with the lowest finished grade to the highest point on the coping of a flat roof, to the deck line of mansard roofs or the average height between eaves and ridge for the gable, hip and gambrel roofs but not including

chimneys, spires, towers, elevator penthouses, tanks or similar projections, if occupying less than ten (10) percent of the roof area of the building.

HORSE RIDING/BOARDING STABLE: Any establishment where four (4) or more horses are kept for riding, driving or stabling for compensation.

IMPERVIOUS SURFACE: A surface that prevents percolation of water into the ground.

IN EXISTENCE: With respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed and occupied at the time of the effective date of the Local Law.

INSTITUTIONAL USES: Activity involving the use by the public or organization members of public, educational or religious facilities. The term also includes facilities and uses operated, owned or undertaken by government, school districts, churches, fraternal organizations or membership clubs.

JUNKYARD: Any open lot or fenced area for the dismantling, storage or sale as parts, scrap or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded material.

KENNEL: Premises used for the sale, boarding, breeding or care of dogs for compensation.

LAND: The earth, on or below the surface of the ground, including water and air above, including the flora and fauna.

LAND DISTURBANCE: Any activity which alters land, topography or vegetative cover.

LANDFILL: Premises used for the collection, storage, deposit or disposal of garbage, trash, refuse, junk or waste material of any kind by abandonment, dumping, burial, burning or other means.

LOT: A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

LOT AREA: The total horizontal area included within lot lines. No part of the area within an adjacent public right-of-way may be included in the computation of lot area.

LOT DEPTH: The mean horizontal distance between front and rear lot lines measured in the general direction of the side-lot lines.

LOT WIDTH: The horizontal distance between side-lot lines measured parallel to the front lot line at a distance from the front lot line equal to the minimum front yard specified for the district.

LOT OF RECORD: A legally existing lot at the time of adoption of this Local Law duly filed and recorded in the Rensselaer County Clerk's Office as either an individual parcel of land or part of an approved subdivision.

LUMBERYARD: A business that produces, manufactures or buys building materials from a supplier and sells them.

MEAN HIGH WATER MARK: The water level reached by the mean annual flood. All distances from the mean high water mark shall be based on horizontal measurements.

MOBILE HOME: Manufactured housing with or without a foundation, designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling or sleeping purposes. A mobile home shall be constructed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. The term mobile home shall exclude modular homes.

MODULAR HOME: These structures are manufactured in two or more sections offsite and transported individually to the placement site and when assembled has a minimum enclosed horizontal exterior dimension of twenty (20) feet. A modular home is designed to be permanently anchored to a foundation to become a fixed part of the real estate.

MOTOR HOME/TRAVEL TRAILER: A vehicle or portable structure, whether or not self propelled, which is designed to be transported on wheels, and which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes provided, however, that any motor home/travel trailer used for residential purposes for more than one hundred twenty (120) days aggregate in any calendar year shall be considered a mobile home. In no instance shall a mobile home be considered a motor home/travel trailer.

MOTOR HOME PARK: An area and facilities designed and utilized for housing motor homes and/or travel trailers on a temporary basis for a fee. Also referred to as Campground.

MOTOR VEHICLE SERVICE STATION: Any area of land, including structures, that is used for the sale of any motor vehicle fuel or oil or other lubricating substances, including the sale of motor vehicle accessories, and which may include facilities for lubricating and other minor servicing of motor vehicles but not including painting by any means; any rebuilding, or repair, or any dismantling or disassembly of frame or exterior parts is not an motor vehicle service station but a motor vehicle service shop. The term motor vehicle service station may also include a quick-stop retail food store provided the store is an integral part of the station

MOTOR VEHICLE REPAIR SHOP: A shop which may provide the services of a gasoline station and which conducts motor vehicle repairs, such as rebuilding and reconstruction of motor vehicles including painting.

MULCHING: The application of a layer of plant residue or other material for the purpose of controlling erosion.

NATURAL DRAINAGE FLOW: The topographical pattern or system of drainage of surface water runoff from a particular site, including various natural drainage ways and watercourses, which carries surface water only during periods of heavy rains, storms or floods.

NON-COMPLYING STRUCTURE: Any structure which is in existence within a given land use district on the effective date of this Local Law but which does not meet the Area & Bulk Regulations of this Local Law.

NON-CONFORMING USE OR NON-CONFORMING LAND USE: Any use or structure which is in existence within a given land use district on the effective date of this Local Law but which is not an accessory, permitted or special permit use of that land use district.

OFFICE: A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

OPEN SPACE RECREATION USE: Any recreation use particularly oriented to and utilizing the outdoor character of an area.

OUTDOOR WOOD BOILER: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

PARKING AREA: An area of land used or intended for off-street parking facilities for motor vehicles.

PARKING SPACE, OFF STREET: A durable, properly graded for drainage, useable and accessible space, enclosed in a building or unenclosed, containing not less than three hundred (300) square feet of area including necessary driveways and space between vehicles, and located totally out of the public right-of-way.

PERSON: Any individual, corporation, partnership, association, trustee or other legal governmental entity.

PERMITTED USE: A use allowed and described for each land use district in Article III of this Local Law.

PLAT: A subdivision of land legally approved and recorded.

PREMISES: A lot, plat or parcel of land together with all structures and uses thereon.

PROHIBITED USE: Any use which is not listed specifically, or through similar use, as a permitted, special permit or accessory use in the District Schedule of Use Regulations shall be considered a prohibited use under this Local Law.

PROPERTY LINE: The legally recorded boundary of a lot, tract or other parcel of land which divides one lot from another or from a street or any public place.

RECREATION, OUTDOOR: Facilities or area set aside for outdoor recreation on a commercial or fee basis, including recreation court or field, ski area, play field, swimming pool, bike trails, hiking trails, golf driving range, golf pitch and putt course and par three golf course and other similar facilities.

RECREATIONAL VEHICLE: A vehicle which is designed and intended to be used as a motor home or towable trailer for recreational purposes.

RESIDENCE: Any building which is designed or used exclusively for residential purposes except hotels and motels.

RESTAURANT: Any establishment, however designated, at which food and beverages (both alcoholic and nonalcoholic) are sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar, fast food establishment, or refreshment stand at a public or semipublic community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RETAIL BUSINESS: Sale of goods, wares, commodities or service to ultimate customers for direct consumption and not for resale.

RIGHT-OF-WAY: The property within an easement permanently established for the passage of persons or vehicles.

ROADSIDE STAND: A light structure intended for the sale of grains, fruits, vegetables, flowers or non-alcoholic products to the general public.

RUNOFF: The dispersion or drainage of surface water by natural or artificial means.

SCREENING: Any properly maintained combination of plant material, earth berms, fences or other devices designed to buffer the view and noise generated by activities on a lot from other properties in the vicinity including adjacent streets.

SEDIMENT: Solid material, mineral or organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion.

SET BACK: The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement except necessary driveways.

SIGN: Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out of doors or on the exterior of any building including illuminated window signs over two (2) square feet in area located within three (3) feet of the window surface and intended to be viewed from the exterior of the building displaying an advertisement, announcement, notice or name. However, a sign shall not include official court or public office notices, official traffic control devices, flag of a nation, emblem or insignia of a nation, political unit, school or religious group.

SIGN, SURFACE AREA OF: The entire area within a single, continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be included as surface area of such sign.

SITE PREPARATION: The activities of stripping, excavation, filling or grading no matter what the purpose of these activities.

SOIL: All unconsolidated mineral or nonliving organic material of whatever origin.

SPECIAL PERMIT USE: A use which is deemed potentially desirable for the public welfare within a given district or districts but which is potentially incompatible with other uses provided therein. Such a use shall therefore be subject to approval by the Village Board and to conditions set forth for such use as well as other applicable provisions of this Local Law.

STEEP SLOPE: Any land area with a slope of fifteen (15) percent or greater.

STREAM: Any natural or artificial stream, river, creek, brook, channel, canal, tributary, kill, rill or branch to the mean high water mark thereof in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks and any adjacent area subject to inundation by reason of overflow, flood or stream water.

STREAM IMPROVEMENT STRUCTURE: Any structure or improvement designed specifically for fishery management purposes or soil and erosion control which does not materially alter the natural, free flowing character of the stream and which is made of natural materials wherever possible.

STREET: A suitable improved public or private right-of-way, which provides access to abutting properties.

STREET LINE: The right-of-way line of a street whether indicated by use, dedication or deed of record.

STRIPPING: Excluding Forestry Uses, any activity that removes or significantly disturbs trees, brush, grass or any other kind of vegetation.

STRUCTURE: Any object constructed, installed or placed on land to facilitate land use or development or subdivision of land.

SUBDIVISION OF LAND/SUBDIVISION: Any division of land into two (2) or more lots, parcels or sites whether adjoining or not for the purpose of sale, lease, license or any form of separate ownership or occupancy including any grading, road construction, installation of utilities or other improvements or any other land use or development preparatory or incidental to any such division by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan or the division of land whether or not previously filed. Subdivision of land shall not include the lease of land for agriculture, hunting, fishing or other open space recreation uses.

SURFACE WATER: All water produced by rain, flood drainage, springs or seeps flowing over the land or contained within a natural or artificial watercourse.

SWALE: A low-lying stretch of land which gathers or carries surface water runoff.

TELECOMMUNICATION TOWER - A structure on which transmitting and/or receiving antenna(e) are located.

TOPSOIL: The natural surface layer of soil to a depth of at least six (6) inches within an undisturbed area of soils.

UNTREATED LUMBER — Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

USE: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE, AREA: A variance to allow on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE: A variance to allow the establishment on a specific lot of a use otherwise prohibited in the district.

VILLAGE BOARD: The Board of Trustees of the Village of East Nassau (also referred to as the Board of Trustees).

WATERCOURSE: Any natural or artificial lake, pond, stream, ditch, conduit, culvert, drainage ways, gully, ravine, swell or other water body in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks and any adjacent area subject to inundation by reason of overflow, flood or storm water.

WETLAND: An area of aquatic or semi-aquatic vegetation which has been mapped as such by the New York State Department of Environmental Conservation under the Freshwater Wetlands Act.

WHOLESALE: Sale of goods, wares, commodities or services to retailers for resale and not for direct consumption.

YARD: An open space on the same lot with a building unoccupied by any portion of a structure except as otherwise provided in this Local Law.

YARD, FRONT: An open, unoccupied space on the same lot with a building between the front line of a building and the street or highway line and extending the full width of the lot.

YARD, REAR: An open, unoccupied space on the same lot with a building between the rear line of the building and the rear lot line and extending the full width of the lot.

YARD, SIDE: An open, unoccupied space on the same lot with a building, situated between the building and the side lot line and extending from the front yard to the rear yard.

ZONING BOARD OF APPEALS: The duly appointed administrative and appellate board that has jurisdiction over appeals, variances, site plan review and referrals from the Village Board.

ZONING PERMIT: A Zoning Permit is any permit issued by the CEO without the need to consult with any special board. In other words, a permit for a use which fits into an acceptable category for the property as defined by this document.

ARTICLE XIII: INTERPRETATION AND APPLICATIONS

Section 1. **INTERPRETATION, CONFLICT WITH OTHER LAWS:** In their interpretation and application, the provisions of this Local Law shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare and protection of the environment. Whenever the requirements of this Local Law are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the more restrictive provisions or those imposing the higher standards shall govern.

Section 2. **SEPARABILITY:** Should any section or provision of this Local Law be decided by a court by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 3. **LOTS, STRUCTURES AND USES AFFECTED:** All lots, structures and uses located within the boundaries of the Village of East Nassau shall be subject to this Local Law except as provided in Article VIII regarding legal nonconforming, lots of record, structures and uses. Any use which does not conform to said nonconforming provisions shall be subject to this Law including any proposal pending before the Village of East Nassau which has not received final approval.