

# ARTICLE 5 APPLICATION & REVIEW PROCESS

<b>5.1</b>	<b>PURPOSE</b>	<b>5-2</b>	<b>5.7</b>	<b>ARCHITECTURAL REVIEW</b>	<b>5-25</b>
<b>5.2</b>	<b>PUBLIC HEARING AND NOTIFICATION PROCEDURES</b>	<b>5-2</b>	5.7.1	Delegation to Design Review <del>Commission Board</del>	5-25
5.2.1	Public Hearing Notice	5-2	5.7.2	Design Considerations	5-25
5.2.2	Property Owner Notification	5-3	5.7.3	Architectural Review Application	5-25
5.2.3	On-Premise Signage	5-3	5.7.4	Advisory Opinion	5-25
5.2.4	Other Referrals	5-4	5.7.5	Architectural Review Decisions	5-26
<b>5.3</b>	<b>CONSENT AGENDAS</b>	<b>5-4</b>	5.7.6	Demolition	5-26
<b>5.4</b>	<b>SUBDIVISIONS</b>	<b>5-5</b>	5.7.7	Expirations and Extensions	5-28
5.4.1	Intent and Delegation to Planning Board	5-5	<b>5.8</b>	<b>HISTORIC REVIEW</b>	<b>5-29</b>
5.4.2	Applicability	5-5	<del>5.8.1</del>	<del>Composition of Design Review Commission</del>	<del>5-29</del>
5.4.3	Evaluation Criteria for Subdivision Approval	5-6	<del>5.8.2</del>	<del>Commission Powers and Duties</del>	<del>5-29</del>
5.4.4	Pre-Application Conference	5-7	5.8.3	Historic Review Objectives	5-30
5.4.5	Concept (Sketch) Plan Review	5-7	5.8.4	Historic Review Standards	5-31
<del>5.4.6</del>	<del>Major Subdivisions Preliminary Plat Review</del>	<del>5-8</del>	5.8.5	Design Considerations	5-31
5.4.7	Final Plat Review	5-9	5.8.6	Demolition	5-31
5.4.8	Conservation Subdivisions	5-13	5.8.7	Historic Review Application	5-33
5.4.9	Cluster Subdivisions	5-14	5.8.8	Advisory Opinion	5-33
5.4.10	Variances, Modifications and Waivers	5-15	5.8.9	Historic Review Decisions	5-33
5.4.11	Review	5-16	5.8.10	Expirations and Extensions	5-34
<b>5.5</b>	<b>SPECIAL USE PERMITS</b>	<b>5-16</b>	5.8.11	Designation of Landmarks and Historic Districts	5-34
5.5.1	Intent and Delegation to Planning Board	5-16	5.8.12	City Landmarks and Historic Districts	5-35
5.5.2	Applicability and Exemptions	5-16	<b>5.9</b>	<b>STORMWATER MANAGEMENT</b>	<b>5-35</b>
5.5.3	Evaluation Criteria for Special Use Permits	5-16	5.9.1	Statutory Authority	5-35
5.5.4	Application Procedures	5-17	5.9.2	Findings of Fact	5-35
5.5.5	Applications Also Subject to Site Plan Review	5-17	<del>5.9.3</del>	<del>Intent Purpose</del>	<del>5-36</del>
5.5.6	Public Hearing Notice and Referrals	5-17	5.9.4	Stormwater Management Officer	5-36
5.5.7	Decisions	5-17	5.9.5	Applicability	5-36
5.5.8	Expiration and Extensions	5-18	5.9.6	Stormwater Pollution Prevention Plans (SWPPP)	5-37
<b>5.6</b>	<b>SITE PLAN REVIEW</b>	<b>5-19</b>	5.9.7	Contents of Stormwater Pollution Prevention Plans (SWPPP)	5-38
5.6.1	Intent and Delegation to Planning Board	5-19	5.9.8	Other Environmental Permits	5-40
5.6.2	Applicability and Exemptions	5-19	5.9.9	Contractor Certification	5-40
5.6.3	Application Procedures	5-19	5.9.10	On-Site Copy	5-40
5.6.4	Evaluation Criteria for Site Plan Review	5-21	5.9.11	Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control	5-40
5.6.5	Site Plan Approval Which Also Requires a Special Use Permit	5-22	5.9.12	Maintenance and Repair of Stormwater Facilities	5-41
5.6.6	Public Hearing Notice and Referrals	5-22	5.9.13	Administration and Enforcement	5-42
5.6.7	Decisions	5-22	<b>5.10</b>	<b>LAND DISTURBANCE PERMIT</b>	<b>5-45</b>
5.6.8	Expiration and Extensions of Planning Board Approval	5-23	5.10.1	Activities Requiring Permit and Exemptions	5-45
5.6.9	Other Requirements	5-23	<del>5.10.2</del>	<del>Exempt Activities</del> Activities Exempt From Permit	5-45

5.10.3	Permit Application Process	5-45
5.10.4	Fines	5-46
<b>5.11</b>	<b>WATERCOURSE ACTIVITY PERMIT</b>	<b>5-46</b>
5.11.1	Permit Application Process	5-46
<b>5.12</b>	<b>SIGN PERMIT</b>	<b>5-47</b>
5.12.1	General	5-47
5.12.2	Enforcement	5-47
<b>5.13</b>	<b>RENEWABLE ENERGY PERMITS</b>	<b>5-47</b>
5.13.1	Solar Photovoltaic (PV) Permits	5-47
5.13.2	Solar Thermal Permits	5-47
5.13.3	Geothermal & Heat Pump Permits	5-48
5.13.4	Electric Vehicle Charging Permit	5-48
<b>5.14</b>	<b>TREE WORK PERMIT</b>	<b>5-49</b>
5.14.1	Permit Required	5-49
5.14.2	Fines	5-49
5.14.3	Responsibility & Liability	5-50
<b>5.15</b>	<b>DEMOLITION PERMIT</b>	<b>5-50</b>
5.15.1	General	5-50
<b>5.16</b>	<b>FLOODPLAIN DEVELOPMENT PERMIT</b>	<b>5-51</b>
<del>5.16.1</del>	<del>Development Permit Required; Fees-General</del>	<del>5-51</del>
5.16.2	Application for Permit	5-51
<b>5.17</b>	<b>BUILDING PERMIT</b>	<b>5-52</b>
<b>5.18</b>	<b>CERTIFICATE OF OCCUPANCY</b>	<b>5-52</b>
<b>5.19</b>	<b>OTHER PERMITS &amp; APPROVALS</b>	<b>5-52</b>
<b>5.20</b>	<b>PERFORMANCE GUARANTEES</b>	<b>5-52</b>

## 5.1 PURPOSE

The purpose of this Article is to detail the legal process and steps for the review and approval of any plans or permits required by this ordinance. The specific design standards which must be met for these approvals are provided in the appropriate section as follows:

Article 2.1 - Residential Districts

Article 2.2 - Mixed Use Districts

Article 2.3 - Specialty Districts

Article 2.4 - Overlay Districts

Article 3 - Requirements for Specific Uses

Article 4 - Design of Sites, Buildings and Signs

## 5.2 PUBLIC HEARING AND NOTIFICATION PROCEDURES

**## Note:** This subsection combines the duplicate Public Hearing and Notification requirements for Site Plan, Subdivision, Special Permit and Variances. The corresponding text in each of those sections has been removed.

Applications for Subdivisions, Site Plan Review, Special Use Permits, and Variances may require a Public Hearing or other notifications. This section is intended to describe the requirements for these hearings and notifications in one central location for reference.

### 5.2.1 Public Hearing Notice

A. The ~~Planning Board~~ reviewing board in charge of the Public Hearing shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the ~~Planning Board~~ reviewing board an affidavit from the newspaper confirming such publication and payment.

1. For subdivisions which include a joint Public Hearing on the draft environmental impact statement, notice must be advertised no less than fourteen (14) days prior to the hearing.

- B.** Public hearings shall be noticed on the city website, to the extent feasible, including links to any application materials for public viewing.

## 5.2.2 Property Owner Notification

The applicant shall provide notice of a hearing to neighboring property owners as follows.

- A.** The applicant shall obtain from the City the names and addresses of owners of all properties property-owners- within which would intersect with a 250 foot geographic radius from the applicant's subject property boundary.
- Hearing notices for minor subdivisions (not major) and area variances (not use variances) shall notify property owners within 100 feet.
  - For subdivisions within five hundred (500) feet of park lands under the jurisdiction of the Regional State Park Commission, notices of the hearing shall also be mailed to that commission at least five (5) days prior to the hearing.
- B.** The applicant shall receive from the ~~Planning Board~~ review board a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 days but not more than 20 calendar days prior to the scheduled hearing. Notices shall be mailed in envelopes clearly marked "City of Saratoga Springs Public Hearing Notice".
- C.** Prior to the public hearing, the applicant shall submit to the ~~Planning Board~~ reviewing board confirmation of the property owner notification by obtaining a "certificate of mailing" from the U.S. Postal Service.
- D.** Failure to provide notice in exact conformance with these provisions shall not invalidate a ~~Planning Board~~ reviewing board determination provided the ~~Planning Board~~ reviewing board finds that substantial compliance has occurred and the public has been fairly apprised of the fundamental character of the proposed action.

## 5.2.3 On-Premise Signage

The applicant shall obtain from the City Planning Office a "Notice of Public Hearing" sign which shall be posted and secured conspicuously as described below.

- A. Sign Design.** The sign shall be printed on high-visibility color paper and include the following:
- The city logo;
  - Text: "PUBLIC NOTICE";
  - The type of review (Special Use Permit, Subdivision, Site Plan, Use Variance, etc.);
  - Text: "This property is the subject of a public hearing scheduled on:"
  - The date and time of the public hearing;
  - Text: "This sign is property of the City of Saratoga Springs. Removal or defacement of this sign by unauthorized persons is prohibited. For information call the City Office of Planning and Economic Development at [phone number]."
- B. Location.** The sign(s) shall be posted in a conspicuous place on the subject property free from obstructed view.
- On properties abutting a street, the sign(s) shall be posted on private property no more than 10 feet from the property line. On properties that do not abut a street, sign(s) shall be placed at the edge of the property closest to the nearest street
  - On properties where an existing structure is not setback from the property line or in instances where property posting is not practicable, sign(s) may be posted in a first floor window. Such window postings shall be visible from the street and shall provide the public with an unobstructed view of the sign.
  - On corner lots, signs shall be posted on each street frontage.
  - On lots with frontage exceeding 200 feet, signs shall be placed at maximum intervals of 200 feet.
- C. Duration.** The sign(s) shall be erected no less than seven (7) days prior to the first meeting or public hearing for which the review of this property has been scheduled. The sign(s) shall be removed within five (5) days of the determination of that application. A Board may withhold the fully executed determination until proof of sign removal has been satisfied. The property owner or applicant or an authorized agent is responsible for erecting, maintaining, and removing the sign(s) in accordance with this Section. Signs may be kept by the applicant and may be reused as long as they are in suitable condition.

**D. Multiple Board Review.** In the event a property is subject to more than one (1) land use review board, the sign(s) shall be posted no less than seven (7) days prior to the first scheduled land use review board appearance and maintained until no more than five (5) days following the determination by the last scheduled board.

**E. Compliance.** Failure to post notification sign(s), or to comply with other applicable standards herein, may result in the delay of application review or in the determination that an application is incomplete.

**F. Waiver.** Each land use review board shall have the authority, within its individual review process only, to waive any or all provisions of this Article upon a finding that:

1. The sign notification requirements are deemed impractical due to unique property characteristics, or
2. The sign(s) have been removed due to excessively inclement weather, or removed by no action of the applicant in such time that renders the applicant unable to replace the sign; provided that substantial compliance with the intent of public notification has been satisfied.

## 5.2.4 Other Referrals

### A. Saratoga County Planning Board Referral

1. Any application for a special use permit, site plan review, or appeal that meets the referral requirements of General Municipal Law Section 239-m shall be referred to the Saratoga County Planning Board for its review. ~~prior to the public hearing.~~ No action shall be taken by the ~~Planning Board reviewing board~~ on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have passed from when the County Planning Board received the full statement.
2. If the Saratoga County Planning Board recommends modification or disapproval of a proposed action, the ~~Planning Board reviewing board~~ shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

### B. Intermunicipal Notification

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application for a special use permit,

subdivision, site plan review or use variance lies within 500 feet of the boundary of another municipality, the ~~Planning Board reviewing board~~ shall submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least 10 days prior to the public hearing.

### C. Advisory Opinion

The ~~Planning Board reviewing board~~ may request an advisory opinion of the Planning Board, Design Review ~~Commission Board~~ or any administrative department or agency in its evaluation. ~~of a special use permit.~~

### D. Joint Review Board Meetings

At their discretion, the Planning Board and the Design Review Board may hold a joint meeting at an early stage of the application process in order to provide timely, efficient and more coordinated guidance to the applicant.  
## Note: Verify if this is new language added or existing.

## 5.3 CONSENT AGENDAS

**A. Consent Agenda.** Noncontroversial or routine items may be placed on a Consent Agenda of the Planning Board or Design Review Board if it is anticipated that there will be no public comment on the item and that there is no need for board discussion.

1. **Consent Agenda Actions.** The board shall establish a process and rules to determine which actions may be considered as part of a Consent Agenda, and may periodically update these rules, which shall be kept on file in the Planning Department.
2. **Notice.** The Planning Department must provide notice to the public of any item proposed for the Consent Agenda at least ten (10) days prior to the board meeting for which it is scheduled. Any conditions of approval for a Consent Agenda item shall be made available to the board in advance.
3. **Procedure.** All of the items on the Consent Agenda shall be approved by a single motion and vote, except for any individual items which are removed for discussion.
4. If any board member or public citizen wishes to discuss an item on the Consent Agenda, it may be removed and discussed as a regular agenda item immediately after the Consent Agenda is completed.

Individual items can be removed from the Consent Agenda by a motion from any board member.

5. The Chair shall issue all administrative approvals in writing and report them to the board in a timely manner. The vote to approve the Consent Agenda constitutes the approval of each item as if it had been acted upon individually.
6. **Abstaining.** A Planning Board member may abstain from the vote on any item on the Consent Agenda, and state the reason for their abstention. A board member's abstention does not require an item to be removed from the Consent Agenda unless it results in a lack of quorum to vote. ## Note: The need for this abstention provision was questioned since it is no different than other abstentions. It has been left in because it explains that abstention does not remove an item from the agenda.
  - a. A board member shall not vote on a resolution in the Consent Agenda if that member did not participate in or review the record of the underlying action.

## 5.4 SUBDIVISIONS

This is a replacement of existing Chapter 241 Subdivisions. ##  
 Note: For the purposes of this draft, all existing code language is being deleted and replaced with the following.

### 5.4.1 Intent and Delegation to Planning Board

The City finds that to support and regulate the orderly development of lots and for the provision of adequate public works including the layout of streets, curbs, street trees and lighting, sidewalks, bike lanes and pathways, curb cuts and sidewalk ramps and facilities for vehicles, pedestrians, bicyclists and persons with disabilities along with necessary utilities including but not limited to water supply, wastewater disposal, energy, communication, drainage and stormwater management, to provide for fire protection and other public safety services and to establish an orderly a safe, well-planned and attractive natural and man-made environment is essential to the economic health of the community and to the general safety and welfare of its residents. Therefore, the intent of this Article is to set forth the process by which to review the site characteristics to ensure consistency with the goals and objectives of the City's Comprehensive Plan and to regulate the subdivision of land into lots suitable for construction of improvements in conformance with this chapter and the development of all associated supporting infrastructure and environmental design, the Planning Board is hereby authorized to administer and carry out the intent established in this Article.

### 5.4.2 Applicability

- A. **Subdivision Approval Required.** These regulations shall govern the subdivision of land within the City, and no person shall subdivide land in the City without first complying with these regulations and obtaining approval of the final plat for the proposed subdivision as evidenced by the endorsement of such plat in accordance with the procedures specified in this Article and recording of the endorsed final plat in the office of the Saratoga County Clerk.
- B. **Lot Line Adjustment.** A change in lot line or an approved subdivision plat to accommodate as-built plans, minor changes to the internal alignment or grade of a street, or a similar type of accommodation and which was not a substantive part of the subdivision approval and

does not create a new lot or make any lot concerned nonconforming as determined by the Zoning Enforcement Officer shall not be considered a subdivision and shall not require Planning Board review and may be approved by the Planning Board Chair to end or set the plat entitled "Lot Line Adjustment" with the following notation: "Authorized endorsement for lot line adjustment per determination of the City of Saratoga Springs by (name, and title-planning board chair) on (Date)."

C. Whenever any subdivision of land is proposed, before any permit for the erection of a permanent building in such proposed subdivision shall be granted, and before any subdivision plat may be filed in the office of the Saratoga County Clerk, the subdivider shall apply for and secure approval of such proposed subdivision in accordance with the provisions of these regulations and other applicable provisions of law.

D. **Approval Required for Legally Pre-Existing Lot that Has Not Received Subdivision Approval.** No person shall erect a building on a parcel of land shown on plat already filed in the office of the Saratoga County Clerk that has not been approved as a subdivision as set forth in these regulations unless such parcel has been determined by the Zoning Enforcement Officer to be a legally pre-existing lot. The Zoning Enforcement Officer shall further determine that such lot can be used safely for building purposes without danger to health or peril from fire, flood, drainage, or other menace to neighboring properties and that the Street Frontage of and proposed access to such lot meets the requirements for safe access, can safely accommodate all expected vehicular and pedestrian traffic and that adequate water, sewer, drainage and other utilities are available directly from such Street Frontage and if not, that a plan acceptable to the City Engineer for any required improvements are provided prior to issuance of a building permit.

E. **Concept plan, preliminary plat and final plat submission.** In order to allow for timely and efficient review and allow for potential design modifications prior to detailed engineering design, three levels of subdivision plan reviews are provided. Submission of a concept plan is optional for a minor subdivision and is recommended but not required for a major subdivision and is only required for a conservation subdivision. A preliminary plat is optional for a minor subdivision and required for a major

subdivision. Submission of a final plat is required for all subdivision types.

F. **Minor Subdivisions.** A determination that a proposed subdivision shall be classified as a minor subdivision shall be made by the Zoning Enforcement Officer after consultation with the City Planning Office and City Engineer provided each of the criteria established below are satisfied:

1. That the proposed modification, consolidation or division of lot boundaries cannot be classified as a lot line adjustment.
2. That no more than three additional lots are being created each conforming to the dimensional requirements of this chapter.
3. That sufficient suitable frontage exists on existing public streets therefore no new street frontage needs to be created or constructed.
4. That the proposed subdivision will accommodate planned bicycle and pedestrian facilities for the street and project location.
5. That substantial improvements to existing water, sewer, and drainage systems will not likely be required.
6. That the proposed action would not be suitable for a conservation subdivision or cluster subdivision.

G. **Major Subdivisions.** A determination that a proposed subdivision shall be classified as a major subdivision shall be made by the Zoning Enforcement Officer based upon the following criterion:

1. That the proposed subdivision, modification or consolidation of lot boundaries cannot be classified as a lot line adjustment or a minor subdivision.

### 5.4.3 Evaluation Criteria for Subdivision Approval.

It is declared to be the policy of the City of Saratoga Springs to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the City. This shall be interpreted to include the following objectives, which will guide the Planning Board's decisions.

- A. That each lot shown on the plat is served by an existing or proposed street that has been properly designed of width,

grade and construction to provide safe and adequate access for vehicles and pedestrians and to accommodate existing and prospective traffic and that any existing streets and related facilities are adequately upgraded to conform to the applicable Street Types for the district as required by the City.

- B.** Proposed streets, sidewalks and bicycle facilities shall compose a convenient system conforming to the City's Comprehensive Plan, Complete Streets Plan, Saratoga Greenbelt Trail and/or Official Street Map as they may be adopted.
- C.** Existing and proposed curb cuts, driveways, roadways and internal traffic circulation placement and design for the subdivision considers and provides reasonable connections to nearby streets and adjacent property to minimize undue traffic concentration and to improve public safety.
- D.** That adequate capacity exists and that any proposed systems are sufficient to provide for all needed public services including but not limited to water supply, wastewater treatment, drainage and stormwater management and communications systems.
- E.** That streets and improvements are designed to reflect the appropriate setting of the neighborhood and include sidewalks, pathways, street trees, lighting, bus shelters, bicycle racks and other amenities as determined necessary and appropriate.
- F.** That emergency services including but not limited to fire, police, and ambulance can safely accommodate the lots in the subdivision.
- G.** Land to be subdivided shall be of such character that it can be used safely for road construction and building purposes without danger to health or peril from fire, flood or other menace.
- H.** All development shall be so situated on the lot to assure that there is provision for adequate light and air for occupants.
- I.** Open space, parks, and playgrounds shall be shown on the subdivision plat.

- J.** Adequate consideration has been given to preserve valuable environmental features to the maximum extent practicable, recognizing that the subdivision development process has inherent unavoidable impact to environmental features.
- K.** In case any of these regulations shall conflict or be inconsistent with any provision of the General City Law, the relevant provisions of the General City Law shall apply.

#### 5.4.4 Pre-Application Conference

- A.** A pre-application conference with the Planning Office is required prior to the filing of a preliminary plat in the case of a major subdivision and is optional in the case of a minor subdivision. The property owner or his duly authorized representative may initially schedule an appointment with the Planning Office to informally discuss the proposed subdivision and become familiar with the requirements of this chapter and other laws, ordinances, rules, regulations or policies of the City of Saratoga Springs that may be pertinent to the proposed subdivision. The Planning Office may invite any other departmental representatives as appropriate to this conference.
- B.** Discussion at the preapplication conference should include review of both procedural and submission requirements and the technical application of the standards provided within the regulations as related to lot layout and required improvements. The Planning Department shall make a recommendation to the Planning Board as to the submissions request for a minor or major subdivision.

#### 5.4.5 Concept (Sketch) Plan Review

- A.** Submission of a concept plan is optional for a minor subdivision and is recommended but not required for a major subdivision and is only required for a conservation subdivision. The property owner or his duly authorized representatives shall submit to the Clerk of the Planning Board, at least 21 days prior to the regular meeting of the Planning Board, a concept plan application and supporting materials as required.
- B.** **Study of Concept Plan.** The Planning Board shall, within 62 days after submission, determine whether the

sketch plat meets the objectives of the regulations and shall, where it deems necessary, make, in writing specific recommendations to be incorporated by the applicant in the next submission to the Planning Board. In its review, the Planning Board may schedule a field visit to the site. To facilitate the inspection of the site, the subdivider shall have the corners of the property marked by temporary stakes and the City Planning Office, after consultation with the City Engineer may require the approximate center line of any proposed streets marked by temporary stakes. The subdivider may be requested to accompany the Planning Board during its site visit.

1. Concept plan review requires the filing of an initial application and payment of a fee to cover the review costs as established by the City Council. Concept plan endorsement does not allow filing of a plat with the County Clerk or authorize the sale or lease of or any offer to sell or lease any lots in such subdivision or any part thereof.
2. The Planning Board shall provide written comments on the concept plan for use by the applicant in preparation of preliminary or final subdivision plat as required.

#### 5.4.6 ~~Major Subdivisions~~ Preliminary Plat Review

Submission of a preliminary plat is options for a minor subdivision and required for a major subdivision.

1. **Application and Fees.** Prior to the filing of an application for the approval of a major subdivision plat and within six months of the classification by the Planning Board Chair of the concept plan of a proposed subdivision as a major subdivision, the property owner or his duly authorized representative shall file an application for consideration with a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form and include all the data prescribed herein. The preliminary plat shall, in all respects, comply with the requirements of sections 32 and 33 of General City Law and these regulations, except where a waiver of any specific requirement may be specifically requested from and authorized by the Planning Board.
  - a. Payment of a fee shall accompany all applications for approval of a preliminary plat for a major

subdivision. Said application fee shall be in accordance with the fee schedule established by resolution of the City Council.

2. **Purpose.** The preliminary plat and the supporting documents for a proposed subdivision constitute the material to be officially submitted to the Planning Board, and later, one paper and one digital (pdf) copy shall become the official record of the Clerk of the Planning Board. The preliminary plat and supporting documents shall show the layout of the subdivision and its public improvements so that the Planning Board can indicate its approval or disapproval of the subdivision prior to the time that the final plat, including the final engineering design and detailing of the public improvements and utilities, is completed. Approval of the preliminary plat does not constitute an approval of the final plat, nor should it be considered a valid basis for the construction of site improvements or other commitments which depend upon its design characteristics.
  - a. The preliminary layout shall additionally serve as a key map to subdivisions subsequently laid out in sections or phases on final plats.
3. **Number of Copies.** The application for approval of the preliminary plat, complete with the requisite number of copies of the preliminary plat, shall be filed with the Clerk of the Planning Board at least 21 days prior to the regular meeting of the Planning Board, at which time it shall be introduced and considered officially received by the Planning Board for purposes of this chapter. A proposed submission which does not include all the required drawings and documents specified or required as set forth in this chapter shall not be accepted by the Clerk of the Planning Board.
4. **Subdivider to Attend Planning Board Meeting.** The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.
5. **Study of Preliminary Plat.** The Planning Board shall study the practicality of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of proposed streets and connections to existing streets to provide an interconnected network, their relationship to the topography of the land and



the lots to be subdivided, water supply, sewage disposal, drainage and stormwater management, lot sizes and configuration, the future development to lands not yet subdivided and the requirements of the Comprehensive Plan, the Open Space Plan, Complete Streets Plan, Greenbelt Trail Plan and/or Official Map as they may be adopted.

**6. Approval Procedure.** All time frames specified below must be coordinated time frames and review process set forth in the State Environmental Quality Review Act (SEQRA) regulations at NYCRR Part 617.

- a. Within 62 days of receipt of the complete preliminary plat application by the Planning Board, the Planning Board shall hold a public hearing on such preliminary plat. Notice of the public hearing, property owner notifications and other referrals shall be conducted as specified in section 5.2.
- b. Within 62 days of the date of such public hearing, the Planning Board shall act, by resolution, on the preliminary plat. The Planning Board shall either approve with or without modifications or disapprove the preliminary plat. The Board shall specify, in writing, its reasons for any such disapproval. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a preliminary plat within the time prescribed therefor shall be deemed approval of the plat.
- c. When approving a preliminary plat, the Planning Board shall state, in writing, the modifications, if any, it deems necessary for submission of the plat in final form with respect to the specific changes which it will require in the preliminary plat; the extent of waivers which may have been specifically requested and which, in the Planning Board's opinion, may be authorized without jeopardy to the public health, safety and general welfare; and the categories of improvement and the estimated amount of all bonds or similar performance guaranties which the Planning Board shall require as a requisite for approval of the final plat. The action of the Planning Board, plus any conditions attached thereto, shall separate document attached to the preliminary plat. One copy shall be returned to the subdivider, one copy shall be retained by the Planning Board. Prior to the

approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

7. The hearing on a preliminary subdivision plat shall be closed upon motion of the Board within one hundred twenty (120) days after it has been opened, unless additional time is granted by the applicant.

## 5.4.7 Final Plat Review

Submission of a final plat is required for all submissions.

- A. **Application and Fee.** The property owner or his duly authorized representative shall prepare a final plat, together with all other supplementary documents, in accordance with this chapter. The application for final plat approval shall be accompanied by a processing fee in accordance with the City's fee schedule.
  1. When a preliminary plat has been submitted and approved, the final plat and other supplementary documents shall be filed with the City Planning Office, together with a written application for final approval, within 180 days after approval with or without modifications of the preliminary plat, unless such time limit is extended by mutual consent of the applicant and the Planning Board.
- B. **Purpose.** The final plat and the supporting documents for a proposed subdivision constitute the complete development of the subdivision proposal. After public hearing, as required, and approval by the Planning Board, this complete submission, along with the applicable performance guaranty and the general liability insurance policy, as approved by the City Attorney, becomes the basis for the development of the subdivision, the installation of required improvements and the applicable inspection services by the Planning Board, the City Engineer or other delegated City representatives.
- C. **Number of copies.** The application for approval of the final plat, complete with copies of the final plat and supplemental material as required in the application forms and filed with the City Planning Office at least 21 days prior to the regular meeting of the Planning Board, at which time it shall be introduced and considered officially received by the Planning Board for purposes of these

regulations.

- D. Approval Procedure.** All time frames specified below must be coordinated time frames and review process set forth in the State Environmental Quality Review Act (SEQRA) regulations at NYCRR Part 617.
1. Within 62 days of the receipt of the final plat by the Planning Board, the Planning Board shall hold a public hearing, if required, on such final plat. Such hearing shall be advertised at least once in a newspaper of general circulation in the City; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under provisions of this article and modified in strict accordance with requirements of such approval, if such preliminary plat has been approved with modifications, the Planning Board may waive by resolution the requirement for such public hearing.
  2. Within 62 days of the date of such public hearing or from the date of receipt of the application by the Clerk of the Planning Board if no such hearing is held, the Planning Board shall act by resolution on the final plat. The Planning Board shall either approve, conditionally approve with or without modification or disapprove the final plat. The Board shall specify, in writing, its reasons for any such disapproval. The time in which the Planning Board must take action may only be extended by mutual consent of the owner and the Planning Board. Failure of the Planning Board to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.
  3. If conditional approval is granted, the Planning Board shall empower the Chairman of the Planning Board to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be so certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in the Planning Board office, and a certified copy shall be mailed to the subdivider which shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Conditional approval of a plat shall expire and the application shall be considered to have been withdrawn 180 days after the date of the resolution granting such approval unless

the requirements have been certified as completed within that time. Upon specific request by the applicant, the Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted, for a time not to exceed two additional periods of 90 days each.

- E. Final Approval and Filing.** Upon completion of the requirements in this chapter and notation to that effect upon the subdivision plat, the subdivision plat shall be deemed to warrant final approval. Two Mylar and two copies as provided by the applicant shall be properly signed by the Chairman of the Planning Board upon receipt of notification that the required performance guaranty and insurance, as may be requested, have had the approval of the City Attorney. A digital copy of the final plat shall be provided to the Planning Board in PDF format. The final plat may then be filed by the applicant in the office of the Saratoga County Clerk. Planning Board approval of a final plat shall not be deemed an acceptance by the City of any street or other land shown as offered for cession to public use. Each plat shall have each of the following statements as shown in Figure 5.4-1.
1. **Expiration of Approval.** The approval of a final plat shall expire within 62 days after the date of the Planning Board's resolution authorizing the Chairman of the Planning Board to sign the drawings unless filing of the plat or a section thereof, as may be authorized by the Planning Board, is accomplished within that time period in the office of the Saratoga County Clerk in accordance with § 32 General City Law. Expiration of an approval shall mean that any further action shall require submission of a new application, payment of a new filing fee and Planning Board review of all previous findings. On and after such expiration of plat approval, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect.
  2. **Filing in Sections.** At the time of final plat approval, the Planning Board may permit the plat to be divided into two or more sections, subject to any conditions the Board deems necessary to ensure the orderly development of the plat. The applicant may file a section of the approved plat with the Saratoga County Clerk, which section shall consist of not fewer than 10 lots nor less than 10% of the total number of lots

shown on the approved plat. In this circumstance, plat approval on the remaining sections of the plat shall continue in effect for a period of three years from the filing date of the first section with the County Clerk. When a plat is filed by section with the County Clerk, the applicant shall, within 30 days, file with the Planning Board the entire approved preliminary plat. The subdivider shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the Saratoga County Clerk and the required improvements have been installed and approved in such section or a satisfactory performance guaranty covering the cost of such improvements has been posted.

F. Stormwater Pollution Prevention Plan

1. For all preliminary subdivision plats a stormwater pollution prevention plan (SWPPP) consistent with the requirements of this chapter shall be required and shall meet the performance and design criteria for approval of a SWPPP for preliminary subdivision plat approval.
2. For all Final Subdivision Plat approvals a stormwater pollution prevention plan (SWPPP) consistent with the requirements of this chapter, and with the terms of preliminary plan approval shall be required for final subdivision plat approval.
3. In cases where property is being subdivided only and not developed, and where there is not an immediate plan to develop such, a stormwater pollution prevention plan shall not be required, unless the Planning Board after consultation with the City Engineer deems it necessary. The right is further reserved to require a plan when the lots are actually developed.

**FIGURE 5.4-1**  
Design Certification Stamps

DESIGN CERTIFICATION

I, \_\_\_\_\_, Registered Professional \_\_\_\_\_ in the State of New York License No. \_\_\_\_\_, do hereby certify that the street system, water system facilities, sanitary sewer system facilities, and storm drainage facilities for this project have been designed in accordance with all applicable state, county, local and city standards.



**Approval**

Approved under authority of a decision adopted on \_\_\_\_\_ by the Planning Board of the City of Saratoga Springs.

\_\_\_\_\_

Chairperson

Dated: \_\_\_\_\_

G. Coordination with State Environmental Quality Review Act

1. Preliminary plats, and final plats where no preliminary plat was required, shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.
2. When the Planning Board is the lead agency under the State Environmental Quality Review Act (SEQRA), any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows:
  - a. If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the plat shall be held within 62 days after the receipt of a complete preliminary plat; or if the Planning Board determines that the preparation of an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the plat and the draft environmental impact statement shall

be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement. If no public hearing is held on the draft environmental impact statement, the public hearing on the plat shall be held within 62 days of filing the notice of completion.

- b. The public hearing on the plat shall be advertised, with notifications and referrals, as specified in Section 5.2.
  - c. If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 62 days following the close of the public hearing on the plat. Within 30 days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the plat.
3. If the Planning Board is not the lead agency under the State Environmental Quality Review Act, any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows:
- a. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the plat within 62 days after the receipt of a complete plat by the Clerk of the Planning Board.
  - b. The hearing on the plat shall be advertised, with notifications and referrals, as specified in Section 5.2. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such plat. The hearing on the final plat shall be completed within 120 days after it has

begun.

- c. The Planning Board shall act on the plat within 62 days after the close of the public hearing on such plat.

#### H. **Building Permits and Certificates of Occupancy**

1. Upon the posting of a satisfactory performance guaranty or upon certification of the completion or installation of all required improvements to the satisfaction of the this article, and upon Planning Board approval of the final plat, and approval of any other permits required by this Chapter, the subdivider or his successor in title may be issued building permits for the construction of buildings in accordance with the approved subdivision plat other applicable laws, rules and regulations.
2. In instances where building permits have been authorized upon the posting of a satisfactory performance guaranty, the subdivider or his successor in title may not be subsequently issued certificates of occupancy for any buildings constructed in the subdivision until completion of all required improvements to City standards and upon certification of such as required in this article.

## 5.4.8 Conservation Subdivisions

**A. Purpose and Applicability.** The purpose of this article is to achieve ~~a balance between~~ well-designed residential development, meaningful open space conservation, and natural resource protection in the ~~countryside city's more rural areas~~ by requiring conservation subdivisions instead of conventional subdivisions.

1. These regulations apply to all properties within the RR and SR-1 Districts, which encompass most of the area described in the Saratoga Springs Comprehensive Plan as the "Country Overlay Area." The use of conservation subdivisions is intended to preserve tracts of environmentally and scenically significant undeveloped land in the "Country" part of Saratoga Springs, including road corridors and buffers, in order to maintain the historic settlement pattern and implement the Comprehensive Plan's vision of a "City in the Country." Conservation subdivisions result in the preservation of contiguous open space and important scenic and environmental resources, while allowing compact development, more walk-able neighborhoods, and more design flexibility than conventional subdivisions. ~~Conservation subdivisions must satisfy the standards in Sections 1, Paragraphs B, C, and D. The procedure for approving conservation subdivisions is described in Article II, Section 2. Graphics in these regulations are included for illustrative purposes:~~

**B. Procedures.** ~~The procedures for the review and approval of Conservation subdivisions shall be the same as those for Major subdivisions, in addition to the following requirements:~~

1. ~~As part of the concept (sketch) plan application, the applicant shall conduct a Conservation Analysis as described in Article 4.~~
2. ~~The conservation subdivision shall be designed according to the standards and guidelines for conservation subdivisions in Article 4.~~
3. The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial preliminary subdivision plat review, the Planning Board (Board) shall ~~indicate to the applicant~~ determine which of the lands identified as being of conservation value are most important to preserve.

4. The ~~outcome of the~~ conservation analysis and the Board's determination after review of the concept plans and any alternatives developed as part of the concept plan including development of a preferred alternative concept plan shall be incorporated into the ~~approved~~ preliminary subdivision plat (~~see Article II, Section 2, Paragraph A.3~~) showing land to be permanently preserved by a conservation easement. The preliminary subdivision plat shall also show preferred locations for ~~intensive~~ development. ~~as well as acceptable locations for less dense development.~~
5. The Board shall make the final determination as to which land has the most conservation value and should be protected from development by conservation easement. Whenever the Board approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land (the "conservation findings"). The Board shall deny an application that does not include a complete conservation analysis sufficient for the Board to make its conservation findings.
6. If, based upon the conservation analysis, the Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision; the Board may approve a conventional development of the site. In order for the Board to make such a determination, the applicant must demonstrate at least one of the following:
  - a. The land contains no substantial resources with conservation value; or
  - b. The acreage is too small to preserve a substantial amount of land with conservation value (this criterion shall not be evaded by piecemeal subdivision of larger tracts); or
  - c. The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value; or
  - d. That there are extraordinary circumstances unique to the parcel that demonstrates that conventional subdivision is in the best interest of the adjacent neighborhoods.
7. In order to make the required showing under b. or c. above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result

in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.

8. An approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis and findings as having conservation value.

### 5.4.9 Cluster Subdivisions

**A. Applicability.** Clustering provisions are limited to single family detached residential developments within the UR-1 and SR-2 residential zoning district where single family detached units are permitted. In no case will other housing types be permitted. Clustering may be applied to subdivisions of any size.

**B. Intent.** The intent of this Article is to permit variation in conjunction with a proposed subdivision plat in lot size and housing type in suitable areas in order to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space, in accordance with Section 37 of the General City Law. This purpose is achieved by permitting a reduction in lot sizes required for the zoning district within which such development occurs while maintaining the imposed density limitations through the provision of open space. ~~These regulations apply to all properties within~~

It is the intent of this Article to promote energy conservation, harmonious architectural design, better use of existing topography and natural features, conservation of open spaces, recreational development, solar access and design, and to provide for economies inherent with cluster-type development and conservation subdivisions.

**C. ~~Delegation to the Board. The power to approve, approve with modifications or disapprove cluster zoning in accordance with the intent established in Article II above, is granted to the Board in accordance with Article 3, Section 37 of the General City Law. ## Note: The above paragraph shall be deleted and moved into Article 1.~~**

**D. Procedures.** The procedures for the review and approval of Cluster subdivisions shall be the same as those for Major subdivisions, in addition to the following requirements:

1. The cluster subdivision shall be designed according to the standards and guidelines for cluster subdivisions in Article 4.
2. In determining the allowed density of a conservation subdivision, the Board shall require the submission of a conventional subdivision plan showing the maximum number of lots that could reasonably be approved in conformance with the zoning and subdivision regulations for the district the project is proposed, and taking into account natural resource constraints such as slopes and wetlands. The number of lots that can be developed in accordance with such a plan shall be known as and constitute the base density for the subdivision. Density of residential units shall not exceed the base density as calculated in [Article IV, Section 1, Paragraph B.1.], ## Note: Point to density calculation for Conservation subdivisions in Article 4. except that the Board may allow up to 20% greater density where it finds that:
  - a. The project provides exceptional open space or public recreation benefits. Examples of such benefits include the provision of a new recreational opportunity available to the public in an area where there has not been such an opportunity; the provision of public access to an important natural or park area; and the permanent protection of an important environmental resource.
  - b. The project provides a desirable mix of affordable housing. Examples of such a mix include the provision of at least 20% of the housing mix below the median housing price. Such houses or lots shall be set aside for purchase by low and moderate income households, as those terms are currently defined by the City's Community Development Office. The Board may establish such other conditions with respect to the purchase and occupancy of affordable housing, as it deems appropriate.
  - c. The decision to allow such bonus shall be at the sole discretion of the Board.
3. ~~A sub-divider~~ An applicant may request the use of this section at any time during the subdivision

review process. ~~The process and procedures shall be identical to those found in the current edition of the Subdivision Regulations of the City of Saratoga Springs.~~The Board shall review modifications in dimensional requirements of the City zoning requirements according to the provisions of Section 37 of the General City Law.

**E.** All the land not contained in the lots or the road right-of-way, if provided, shall:

1. Be dedicated to the City, provided the City is willing to accept such dedication; or
2. Be transferred to a not-for-profit corporation approved by the Attorney General's Office, pursuant to Section 352(e) of the General Business Law, comprised of owners of lots within the development; or
3. Be transferred to a bona fide charitable not-for-profit corporation whose purposes include the acceptance of land for open space, conservation, protection of environmentally sensitive areas, or the like.

**F.** The applicant shall notify the Board of its intention to dedicate or transfer the open space portion of the conservation subdivision prior to the grant of final subdivision approval, and shall supply the Board with such reasonable documentation that it may request evidencing its intentions and indicating the ability and/or willingness on the part of the proposed recipient to receive such lands for such purpose.

**G.** The applicant may be required by the Board to incorporate into the deeds of all property within the development a clause giving to the owners an easement or other interest in such open land which shall be used for recreation or other like purposes and, further, provide the City of Saratoga Springs with an easement providing for the same, which may be enforced by the City to insure the continued use of the property as common open space area. No structure save those incidental to the recreational functions shall be permitted thereon.

**H.** The open space lands shall be subject to taxation, unless deeded to the City or to a qualified charitable corporation.

#### **5.4.10** Variances, Modifications and Waivers

- A.** Where the Board finds that because of unusual circumstances of shape, topography or other physical features of the proposed subdivision or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with these regulations, it may waive certain requirements of these regulations so that substantial justice may be done and the public interest secured: provided that no such waiver shall be granted which will have the effect of nullifying the intent and purpose of the Official map, Zoning ordinance, these regulations, or ordinances of the City.
- B.** In granting changes and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so changed or modified.
- C.** The Board may waive, subject to appropriate conditions or guarantees, for such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interests of the public health, safety and general welfare. The Board may not waive improvements, which the public interest requires. The Planning Board shall not approve exceptions or waivers of conditions unless it shall make the findings based upon the evidence presented to the Board that in each specific case:
  1. The granting of the exception or the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property.
  2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable, generally, to the other property.
  3. Because of the particular physical surroundings, shape, or topographical condition of the property involved, a particular difficulty for the owner would result, as distinguished from a mere inconvenience, if a strict interpretation of these regulations were carried out.
  4. The relief sought will not, in any manner, vary the provisions of the City of Saratoga Springs Zoning Ordinance, Comprehensive Plan or Official Map, except that those documents may be amended in the manner prescribed by law.

### 5.4.11 Review

Any officer, Department or Board of the City, with specific approval of the City Council, or any person or persons, jointly or severally aggrieved by any decision of the Board concerning a plat decision, may bring a proceeding to review such decision in the manner provided by Article 78 of the Civil Practice Law and Rules in a Court of Record on the ground that such decision is illegal or improper in whole or in part. Such proceeding must be commenced within thirty (30) days after the signing of the subdivision plat plan.

## 5.5 SPECIAL USE PERMITS

## Note: Includes existing article 7.1.

### 5.5.1 Intent and Delegation to Planning Board

The intent of this **Article Section** is to set forth requirements that shall apply to certain land uses which, due to their particular characteristics and potential impacts, require special consideration to ensure the protection of public health, safety and welfare and to mitigate any adverse impacts on surrounding properties and community character. The Planning Board is hereby authorized to administer and carry out the intent established in this **Article Section**.

### 5.5.2 Applicability and Exemptions

The Planning Board shall conduct Special Use Permit Review for any use so required by **Article 2.2 with the following exemption except that** Special Use Permit review shall not be required if the following two conditions are met:

- A. The action does not result in an increase in the required number of parking spaces as set forth in **Article 6.2; and**.
- B. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 s.f., whichever is less, from the most recent, approved site plan. **## Note: The usefulness and impact of this provision has been questioned, for discussion.**

Neither of these exemptions shall permit the alteration of any specific approval conditions of prior Special Use Permits without Planning Board approval.

### 5.5.3 Evaluation Criteria for Special Use Permits

- A. To ensure that the proposed use will not adversely affect surrounding properties and community character, the Planning Board's evaluation of Special Use applications shall include the following:
  1. The extent to which the use is in harmony with and promotes the general purposes and intent of the Comprehensive Plan and this Chapter.



2. The density, intensity and compatibility of the use with the neighborhood and community character.
  3. The proposed use would not require the removal of any significant trees or vegetative buffers which contribute to the character of adjoining properties or mitigate impacts to them.
  4. Safe and efficient pedestrian and vehicular access, circulation and both on-street and off-street parking.
  5. Existing and future demand on infrastructure, public facilities and services.
  6. The environmental and natural resources of the site and neighboring lands including any potential erosion, flooding or excessive light, ~~noise~~, vibration and the like.
  7. The potential impact on neighboring properties with regard to noise from regular daytime operations as well as special events which may be held on the property during the daytime or nighttime hours.
  8. The long-term economic viability of the site, neighboring properties and districts.
- B. The approval of a special use permit shall be limited to its own facts, site conditions and circumstances and shall have no precedential effect entitling or implying that a similar use would be approved elsewhere.

### 5.5.4 Application Procedures

- A. For all uses that require a special use permit, as indicated in [Article 2.2](#), application may be made directly to the Planning Board or as a referral by the Zoning Officer.
- B. The Planning Board shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for a special use permit must be the owner, lessee or purchaser under contract for ~~involved~~ the subject parcel. A lessee and purchaser under contract must ~~have~~ produce written permission of the current property owner(s) to submit an application.
- D. Applicant must provide the Planning Board with all application information at least one week prior to the subject meeting, to the extent possible.

- E. Applications for Special Use Permit shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council.

### 5.5.5 Applications Also Subject to Site Plan Review

- A. An application subject to special use permit may also be subject to site plan review as indicated in [Article 2.2](#).
- B. The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process. A Special Use Permit, however, cannot be waived as a condition of Site Plan.

### 5.5.6 Public Hearing Notice and Referrals

- A. Within ~~62 days~~ of the submission of a complete application, the Planning Board shall conduct a public hearing on that application. ~~## Note: Should this be 60 days?~~
- B. A Public Hearing shall be scheduled, with notifications and referrals as specified in Section 5.2.

~~## Note: Remainder of the Public Hearing Notice and Referral requirements from this section have been moved and combined into a common section 5.2~~

### 5.5.7 Decisions

- A. In rendering its decision on any application, the Planning Board shall comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- B. The Planning Board shall issue a written decision on an application within ~~62 days~~ of the close of the public hearing. This time frame may be extended by mutual consent of the applicant and Planning Board. ~~## Note: 60 days?~~
- C. Four affirmative votes are required to pass a motion

regarding an application before the Planning Board.

- D. The Planning Board may grant one of three types of permits:
1. **A Permanent Special Use Permit** allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of 12 consecutive months.
  2. **A Temporary Special Use Permit** allows a specific use to continue until a specific date at which time the special use permit shall automatically terminate and the use shall be permanently discontinued. A temporary permit shall not be renewed nor extended.
  3. **A Renewable Special Use Permit** allows a specific use to continue until a specific date unless renewed by the Planning Board for an additional period of time. A request for renewal shall be submitted prior to the expiration of the renewable special use permit. If not renewed, the use shall be permanently discontinued.
- E. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related, and incidental, to the proposed special use permit. Upon its granting of said special use permit, any such condition must be met in connection with the issuance of permits by the City.
- As a condition of approval of a special use permit, the **Planning Board** may require a letter of credit or equivalent security approved by the City to guarantee satisfactory performance of all required improvements or conditions.
- ## Note: Should this be Planning Board or City?**
- F. **Consent Agenda.** Administrative, noncontroversial or routine items may be placed on the Planning Board Consent Agenda as described in Section 5.3. ~~Administrative Approval. The Chairperson shall have the authority to approve minor modifications to existing special use approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board in a timely manner.~~
- G. Every special use permit decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which

the decision is based.

- H. Every special use decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

### 5.5.8 Expiration and Extensions

- A. Unless otherwise specified or extended by the Planning Board, a decision on any request for a special use permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.
- B. The Planning Board may grant up to two 18-month extensions for an approved special use permit provided that the application was properly submitted prior to the expiration date of either the original special use permit or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

## 5.6 SITE PLAN REVIEW

## Note: Includes existing article 7.2

### 5.6.1 Intent and Delegation to Planning Board

The City finds that a safe, well-planned and attractive natural and man-made built environment is essential to the economic health of the community and to the general safety and welfare of its residents. Therefore, the intent of this Article Section is to set forth the process by-which to review the proposed site characteristics to ensure consistency with the goals and objectives of the City's Comprehensive Plan and to regulate the preservation, conservation and the efficient use of City resources. The Planning Board is hereby authorized to administer and carry out the intent established in this Article Section.

### 5.6.2 Applicability and Exemptions

**A. Applicability.** Site Plan Review shall be conducted for the following actions:

1. Any use so required by Article 2.2.
2. To construct, modify or demolish any structure other than a single-family or two-family residence and associated residential accessory structures in any district.
3. To implement a use variance except for 1- or 2-family structures.
4. To amend a prior site plan approval.

**B. Exemptions.** An action otherwise requiring site plan review may be exempt if the following two conditions are met:

1. The action does not result in an increase in the required number of parking spaces as set forth in Article 6.2; and
2. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 s.f., whichever is less, from the most recent, approved site plan.

Neither of these exemptions shall permit the alteration of any specific conditions of prior site plan approvals without Planning Board approval.

## 5.6.3 Application Procedures

### A. General Requirements

1. For all uses that require site plan review, as indicated in Article 2.2, application may be made directly to the Planning Board or as a referral by the Zoning Officer.
2. All applicants for site plan review are encouraged to request consultation with planning and engineering staff as part of an optional, informal sketch plan review to seek preliminary advice and direction on their application prior to commencing formal review.
3. Applications for site plan review shall be reviewed by the Building Department and City Engineer as appropriate to determine if they are sufficient to meet Early Determination of Compliance.
4. The Planning Board shall not accept any application for site plan review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer or City Engineer that is not the subject of the application.
5. An eligible applicant for site plan review must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have written permission of the current property owner(s) to submit an application for site plan review.
6. Applications for site plan and sketch plan review shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council. ## Note: Planning Board or City?
7. Applications must include plans from either a New York State licensed professional engineer or landscape architect.
8. The Planning Board may request an advisory opinion of the Complete Streets Committee, Open Space Committee, or any administrative department or agency or advisory board in its evaluation of a site plan application.
9. The Planning Board may request a conservation analysis be completed by the applicant on properties in any district where the board feels that conservation of the existing natural resources is warranted.
10. The Planning Board shall not deny the review of an application due to a pending Article 78 proceeding if the applicant seeks to proceed at their own risk. ## Note: This provision was questioned, why codify this?

11. Applicants are encouraged to coordinate with adjacent parcel owners when developing large-scale mixed-use projects. ## Note: This provision was questioned, the PB can do this anyway under SEQRA, why specify?
12. The applicant must provide the Planning Board with any and all information a minimum of one week prior to a site plan review meeting to the extent possible.
- B. Consent Agenda.** Administrative, noncontroversial or routine items may be placed on the Planning Board Consent Agenda as described in Section 5.3.
- C. Sketch Plan Review**
1. The submission of a sketch plan to the Planning Board is a non-binding ~~option available to the applicant procedure~~ prior to formal site plan review with the intent to ~~seek~~ provide advice and direction early in the application process. The submission of a sketch plan may be required by the Planning Office or the Planning Board at the request of the Chair. Sketch plan submission shall be in conformance with the requirements contained in Appendix B. ## Note: How does the Planning Board/Office know to require sketch before an Applicant already comes forward?
  2. The applicant, or authorized representative, shall attend the Planning Board meeting to discuss the proposed project and ~~satisfaction of~~ satisfy the requirements of this Article.
  3. Unless authorized by the Planning Board, the applicant will be limited to 2 sketch plan discussions. The Planning Board may require a joint meeting with the Design Review Board at the Sketch Plan stage in order to provide timely guidance early in the process. The intent is to provide applicants with a better understanding of what the individual boards are looking for in an efficient manner.
- D. Prior Determination of Compliance.** Prior to the scheduling of formal Site Plan review, the Planning and Engineering Departments shall review the application to determine if it is in general conformance with the requirements of this Chapter, fulfills the requirements of the Site Plan Review Checklist and is sufficient for the purposes of review. If deemed insufficient or incomplete, the Planning Department shall return the application to the applicant with a memo outlining the deficiencies and requesting resubmittal.
- E. Technical Advisory Committee (TAC) Review.** At the discretion of the Planning Board Chair, larger or more complex projects may be required to conduct a coordinated review with a Technical Advisory Committee prior to commencing formal Site Plan application. ## Note: The need for this provision has been questioned, for discussion.
1. This committee may be established as necessary per project and may include the following representatives as determined necessary by the Planning Board Chair:
    - a. At least one (1) representative each of the Planning Board and Design Review Board;
    - b. Office of Planning and Economic Development;
    - c. Building Department;
    - d. Department of Public Safety;
    - e. Department of Public Works, including City Engineer's Office;
    - f. Additional consultants with regards to engineering, planning or related specialized fields of expertise.
  2. This committee shall meet as deemed necessary by the Planning Board Chair to resolve preliminary design and safety issues.
  3. The decisions and findings of this committee shall be voluntary and are not required prior to filing an application for Site Plan Review.
- F. Formal Site Plan Review**
1. Formal site plan submission shall be in conformance with the requirements contained in Appendix B.
  2. The official submission date of the site plan shall be the first meeting at which the site plan is discussed by the Board.
  3. The applicant, or authorized representative, shall attend the meeting of the Planning Board to discuss the site plan.
  4. The Planning Board may recoup from an applicant costs incurred by the Planning Board for consultation fees, special studies or other expenses in connection with the review of a proposed site plan by city registered engineers. An escrow account must be established for this purpose when utilized.
- G. Final Site Plan Submission**

**## Note:** This subsection has been moved up from later in the document to be with the other Site Plan Review material - please advise if there is a reason this cannot be done this way.

1. No site disturbance may occur prior to signature of the final plans by the Planning Board Chair **person**. and a pre-construction meeting is held with the City Engineer.
2. The following requirements shall be satisfied prior to the review and approval of final site plans by the Planning Board Chair **person**:
  - a. Review and approval of construction details and final site plans by the City Engineer. Final Plan submission shall be in accordance with the requirements identified in **Appendix B**.
  - b. Submission of a performance guarantee properly issued to the City as set forth in **Section 7.2.15**.
  - c. Documentation of conformance with all required approval conditions.
  - d. Proof of payment for any and all required fees.

#### 5.6.4 Evaluation Criteria for Site Plan Review

- A. To ensure that the development of a proposed site will be in keeping with the provisions of this chapter and will not adversely impact surrounding properties, community character or the general health, safety and welfare of the community, the Planning Board's evaluation of Site Plan Review applications shall include the following:
1. That the proposed site plan conforms to the Guiding Principles and Design Considerations for the district.
  2. That any proposed streets conform to the applicable Street Types for the district.
  3. That the proposed front yard areas conform to the applicable Frontage Types for the district.
  4. That the location, arrangement, size, design and general site compatibility of buildings and sign structures is compatible with the neighborhood and meet the requirements for the district.
  5. Location, arrangement, appearance and sufficiency of off-street parking and loading as required by Section 4.7.
  6. That the proposed site plan sufficiently preserves healthy trees (greater than 6 inch diameter at breast

height) and natural existing vegetative buffers by retaining them as part of the proposed design. Note this was previously drafted as 12" inches in diameter to meet the UCFMP definition of a small specimen tree. Has since been reduced.

7. **## Note:** The following LEED language was suggested for incorporation here, for discussion: A site survey has identified the following:
  - a. Trees in good or excellent condition, as determined by an arborist certified by the International Society of Arboriculture (ISA);
  - b. Any heritage or champion trees of special importance to the community because of their age, size, type, historical association, or horticultural value, as defined by a government forester;
  - c. All trees larger than 6 inches in diameter at breast height (dbh, 4 feet six inches) above ground; and
  - d. Any invasive plant species that affect trees present on the site, and whether those plants threaten the health of other trees to be preserved on the site, as determined by an ISA-certified arborist.
8. **## Note:** The following LEED language was suggested for incorporation here, for discussion: Preserve the following trees that are also identified as in good or excellent condition:
  - a. All heritage or champion trees and trees whose dbh exceeds 50% of the state champion dbh for the species;
  - b. A minimum of 75% of all non-invasive trees (including the above) larger than 18 inches dbh; and
  - c. A minimum of 25% of all noninvasive trees (including the above) larger than 12 inches dbh if deciduous and 6 inches dbh if coniferous.
9. Adequacy, type, size, and arrangement of trees, shrubs and other landscaping which meet the applicable landscaping requirements, including landscaping and screening for parking, service and loading areas. ~~Parking, service areas, and loading and maneuvering areas shall be reasonably landscaped and screened from neighboring areas.~~
10. Adequacy and arrangement of on-site and off-site illumination which meet the exterior lighting requirements of Section 4.11.

11. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, multi-use paths, ADA compliance, control of intersections with vehicular traffic and any required pedestrian amenities. ~~overall pedestrian convenience.~~
  12. Adequacy of storm water and drainage facilities with attention to required and/or recommended green infrastructure stormwater design methods specified in Article 4. ~~impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.~~
  13. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls with regard to the required Street Types and complete streets design considerations.
  14. Adequacy of water supply including water pressure and quantity.
  15. Adequacy of sanitary sewer including size and inverts, or adequacy of sewerage disposal facilities including soil borings, percolation tests, soil characteristics and professional certification of system adequacy.
  16. Adequacy of fire lanes and other emergency zones; location and arrangement of fire hydrants, stand pipes, and other fire safety facilities.
  17. Adequacy of outdoor public spaces such as courtyards, plazas, gardens and pocket parks as recommended in Article 4.
  18. That the proposed site plan adequately incorporates any required outdoor civic space as outlined in Article 4.
  19. That the proposed site plan avoids unnecessary disruption of established ecosystems and endangered plant and animal habitat.
  20. That the proposed site plan considers site planning methods to reduce the impact of heat islands as recommended in Article 4.
- B. Design and Construction Standards.** The Planning Board shall adopt and maintain a set of design and construction standards which shall apply to all actions that require site plan review. They ~~will be~~ are available in the Office of Planning and Economic Development and on the City's website.

### 5.6.5 Site Plan Approval Which Also Requires a Special Use Permit

- A. Review.** The Planning Board shall conduct site plan review independently or in conjunction with special use permit as required by [Article 2.2](#). Such review may occur concurrent with or subsequent to special use permit review. Separate applications and application fees are required for each review.
- B. Waiver.** The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process.

### 5.6.6 Public Hearing Notice and Referrals

- A.** The Planning Board may hold a public hearing on any site plan at the direction of the Chair or upon a majority vote of the Planning Board.
- B.** A Public Hearing shall be scheduled, with notifications and referrals as specified in Section 5.2.

**## Note: Remainder of the Public Hearing Notice and Referral requirements from this section have been moved and combined into a common Section 5.2**

### 5.6.7 Decisions

- A.** In rendering its decision on any application for site plan review, the Planning Board shall comply ~~will~~ with all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- B.** The Planning Board shall issue a written decision on an application within **62 days** of the close of the public hearing, if scheduled, or of the official submission date. This time frame may be extended by mutual consent of the applicant and Planning Board. **## Note: 60 days or 62?**
- C.** Four affirmative votes are required to pass a motion regarding an application before the Planning Board.
- D.** The Planning Board shall have the authority to approve,

approve with modifications or disapprove site plans and may impose such reasonable conditions, easements, covenants and restrictions as are directly related, and incidental, to the proposed site plan.

- E. Every site plan notice of decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which the decision is based.
- F. Every site plan review decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.
- G. **Consent Agenda.** Administrative, noncontroversial or routine items may be placed on the Planning Board Consent Agenda as described in Section 5.3. ~~Administrative Approval. The Chairperson shall have the authority to approve minor modifications to existing site plan approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board.~~

### 5.6.8 Expiration and Extensions of Planning Board Approval

- A. In order to maintain Planning Board approval, the official signature of the Planning Board Chairperson must be placed on the final site plan no later than 18 months from the date of the Board's decision. The signed site plan shall be filed in the office of Planning and Economic Development.
- B. The Planning Board may grant up to **two 18-month extensions** [## Note: This was questioned by TRAC for further discussion] in addition to the initial 18 month period in which the applicant must obtain **signature approval** of the final plans, provided such request is properly submitted prior to expiration of the initial 18 month period or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

- C. **Final Site Plan Expiration.** Regardless of the terms of any properly issued Building Permit, final site plan approval shall expire if actual construction has not commenced within 18 months of the signing of the final site plan. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement or the demolition or removal of any existing structure if no new construction is approved.

### 5.6.9 Other Requirements

#### A. Performance Guarantees

The Planning Board shall require performance guarantees as specified in Section 5.20.

## Note: This subsection has been removed and relocated to its own stand-alone section so that it can be referenced as needed.

## Note: Must identify other sections of the code where this may want to be referenced from.

#### B. Construction and Inspections

1. **Pre-construction Conference.** Following final site plan approval, a pre-construction conference shall be held with the City Engineer and relevant Departmental staff to discuss construction schedules, process and inspections.
2. **Construction Notifications.** The owner or designated representative shall notify the City Engineer 48 hours prior to commencing any work and prior to resuming work if the contractor is absent from the site for more than 7 days. In addition, the City Engineer shall be notified prior to any of the following construction activities. Failure to notify the City Engineer of these activities prior to completion shall make the work subject to rejection, excavation and inspection at the applicant's expense:
  - a. Site clearing
  - b. Sanitary sewer installation
  - c. Storm sewer installation
  - d. Waterline installation
  - e. Sub-grade preparation
  - f. Gravel installation
  - g. Asphalt binder and wearing courses and curbing

- h. Blasting
- i. Any special construction

3. The City Engineer, or designee, shall inspect the required construction activity. The applicant shall be responsible for all inspection fees as established by the City Council. ~~The inspection fees for the site plan shall not exceed 2% of the cost of the installation of the required improvements.~~ If the City Engineer finds that the required improvements have not been constructed in accordance with approved plans and specifications, The City Engineer shall so report to the City Attorney, the Building Inspector and the Planning Board. The City Attorney shall then notify the applicant and, if necessary, the financial guarantor, and take all necessary steps to preserve the City's rights under the performance guarantee.
4. The City Engineer shall have the authority to suspend work on any site if it is found to be in violation of the approved site plan or conducted in an unsafe or dangerous manner. All unauthorized activity shall be suspended until the stop work order has been rescinded.
  - a. The stop work order shall be in writing and shall state the conditions under which the activity may resume.
  - b. The stop work order shall be presented to the person performing the work and, if different, the property owner in person or by certified or registered mail, and may be placed upon a conspicuous portion of the building or premises in use.
5. The City Engineer shall have the authority to direct or take immediate action to abate or remedy any hazard or imminent danger to the health, safety or general welfare of the public. Any documented costs incurred by such action shall be paid for by the owner of such property or person responsible. The City shall be authorized to institute a suit, if necessary, against the person liable for such expenses or to place a lien against the property in order to recover the said costs. The City Engineer may also request the City Attorney to take possession of financial guarantee funds if necessary.

#### C. Post Construction Completion

Upon completion of all required improvements, the

applicant shall submit **proposed** "as-built" drawings to the City Engineer for review and approval.

Such "as-built" drawings shall meet the requirements established by the City Engineer and as indicated in **Appendix B. ## Note: Tim W. to provide latest as-built standards to be inserted into Appendix.**

#### D. Recreation Land Requirements ~~for Site Plans Containing Residential Units~~

For site plans containing residential units, if it is determined that ~~Upon finding that~~ a proper case exists for requiring a park or other recreational facility within the City, the Planning Board shall require an offering of usable land, or fee in lieu of land, for this purpose. Such a finding shall include an evaluation of the present and anticipated future need for park and recreational facilities based on projected population growth to which the particular site plan will contribute.

1. **Class A Type Usable Land.** Class A Type usable land refers to developable land generally devoid of wetlands, drainage courses, steep slopes, and the like. The owner shall offer to the City Class A Type Usable Land equal in size to at least 10% of the subject parcel(s) for use as publicly accessible parkland. The Planning Board may specify which lands within the site plan shall be dedicated for parkland and may seek recommendations from the City Recreation Commission on such offers. The Board may require that the owner suitably grade the offered land.
2. **Class B Type Usable Land.** Class B Type usable land refers to land not suitable generally for development except for passive open space. Unique and scenic areas and those areas bordering streams, lakes or other watercourses may be given special consideration by the Planning Board and, should they be deemed essential or desirable for public open spaces, the Board may instead request that the owner offer Class B Type Usable Land to the City to be defined and preserved as passive open space.
3. **Payment of Fee in Lieu of Usable Land.** In the event the **authorized board** **## Note: Need legal input, unsure if PB has jurisdiction** makes a finding that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot



be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the legislative body. The fee shall be required for each new residential unit created by the site plan and shall be used by the City exclusively for neighborhood park, pedestrian / bike trails, playground or recreation purposes including the acquisition and improvement of property.

4. **Combination of Land and In-Lieu of Fee.** If the Planning Board determines that only a portion of the 10% area offered by the owner is acceptable for public use, then the owner shall dedicate the acceptable land and pay a fee equal to the difference in the percentage of land offered and the 10% required.
5. **Prior Land Set Aside for Subdivision.** If the land included in a site plan is a portion of a previously approved subdivision, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of re-subdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.
6. **Transportation Mitigation Fee.** [## Note: Recommended by TRAC - for discussion, as an option for large scale projects]

## 5.7 ARCHITECTURAL REVIEW

## Note: From existing section 7.5.

The intent of this Section is to provide for the proper administration and review of projects within the designated Architectural Review Districts, as defined in Article 2.4.3.

### 5.7.1 Delegation to Design Review ~~Commission Board~~

The Design Review ~~Commission Board~~ is hereby charged with the responsibilities of administering and carrying out the intent, process and actions established in this ~~Article Section~~ and ~~Article 7.4 Section 5.4~~ "Historic Review".

### 5.7.2 Design Considerations

For actions subject to review, the Board shall evaluate and determine if the design considerations of Article 2.4.3 Architectural Review Overlay as well as the Guiding Principles of the underlying district are being met.

### 5.7.3 Architectural Review Application

- A. It shall be the duty of the Zoning Officer to refer to the ~~Commission Board~~ all actions identified in this Article that require architectural review approval.
- B. The ~~Commission Board~~ shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for architectural review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have the permission of the current property owners to submit an application for architectural review approval.
- D. The City shall collect a fee for all applications to the ~~Commission Board~~ as established by the City Council.

### 5.7.4 Advisory Opinion

The ~~Commission Board~~ may request an advisory opinion of the Planning Board or any administrative department or agency in its evaluation of an application for architectural review.

## 5.7.5 Architectural Review Decisions

- A. In rendering its decision on any application, the **Commission Board** shall comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.
- B. Within 62 days of the determination by the **Commission Board** that the application is complete, or the close of the public hearing, a written decision will be issued. This time frame may be extended by mutual consent of the applicant and the **Commission Board**.
- C. Four affirmative votes are required to pass a motion regarding an application before the **Commission Board**. If four affirmative votes cannot be attained on a motion within this 62-day period, unless extended by mutual consent of the applicant and the **Commission Board**, the application shall be denied by default.
- D. The **Commission Board** may issue any of the following decisions:
1. **Approve as submitted.**
  2. **Approve with conditions.** The **Commission Board** may impose appropriate conditions in connection with its approval including those related to:
    - a. Nature and quality of building materials
    - b. Manner of construction
    - c. Design and other building elements
  3. **Preliminary approval.** Prior to the granting of final approval by the **Commission Board**, an applicant may seek "preliminary approval" for the general "mass and scale" of a proposed structure. This preliminary approval is subject to a SEQRA determination and constitutes approval of the footprint and proportions of the proposed structure, including any proposed rooftop structures, and its compatibility with the surrounding neighborhood. Such preliminary approval does not constitute approval of elevations and other façade and roofline details. Unless so noted within the preliminary approval, an applicant must obtain final approval by the **Commission Board** prior to issuance of a building permit.
  4. **Disapprove.** The **Commission Board** may disapprove an application provided the **Commission Board** finds

that such construction, alteration or demolition would be in opposition to the intent and objectives of this Article, and that this finding is not based on personal preference as to taste or choice of architectural style.

- E. Every **Commission Board** decision shall be signed and dated by the Chairperson and shall document the circumstances of the case and the findings on which the decision is based.
- F. Every **Commission Board** decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.
- G. **Consent Agenda. Administrative, noncontroversial or routine items may be placed on the Design Review Board Consent Agenda as described in Section 5.3. Administrative Approval. The Chairperson shall have the authority to approve minor modifications to existing Commission approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Commission.**
- H. Building Permits, Inspections and Certificates of Occupancy
1. Upon receipt of Architectural Review approval and confirmation of compliance with any required conditions, the Building Department may issue building, sign or demolition permits associated with the Architectural Review application. No building, sign or demolition permit shall be issued in the event of Architectural Review disapproval.
  2. For actions subject to Architectural Review but not requiring a building, sign or demolition permit, the Building Department shall perform inspections as may be necessary to confirm compliance with **Commission Board** approval and any required conditions.
  3. Upon confirmation of the completion of an approved action requiring Architectural Review, and any required conditions, the Building Department may issue a certificate of occupancy.

## 5.7.6 Demolition

The **Commission Board** shall determine whether the proposed structure has architectural or historic significance. "Significance" includes having particular important associations within the context of the architecture, history or culture of Saratoga Springs or region and may include listing as "contributing" on the State and National Registers of Historic Places.

**A. Structures with no architectural or historic**

**significance.** The **Commission Board** may approve an application for demolition if it finds that the demolition is consistent with the intent and objectives of this Article and that the structure proposed to be demolished has no historic or architectural significance.

**B. Structures with architectural or historic significance.**

For the proposed demolition of a structure with architectural or historical significance, the applicant must demonstrate "good cause" as to why such structure cannot be preserved.

1. The applicant shall document "good faith" efforts in seeking an alternative that will result in the preservation of the structure including consultation with the **Commission Board** and the Saratoga Springs Preservation Foundation. The relocation of structures may be permitted as an alternative to demolition;
2. The applicant shall document efforts to find a purchaser interested in acquiring and preserving the structure;
3. The applicant shall demonstrate that prominent portions of the structure, such as the facade, cannot reasonably be retained as part of an adaptive re-use design.
4. The applicant shall demonstrate that the structure cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
5. The applicant shall submit evidence that the property is not capable of earning a reasonable return regardless of whether that return represents the most profitable return possible. "Dollars and cents proof" shall be required to demonstrate such hardship.
6. Application for demolition of a structure with historic or architectural significance shall include acceptable post-demolition plans of the site. Such plans shall include an acceptable timetable and guarantees which may include performance bonds/letters of credit

for demolition and completion of the project. The **Commission Board** may condition the issuance of a demolition approval on the applicant's receipt of all other necessary approvals and permits for the post-demolition plan.

**C.** After receipt of application for demolition of a structure with historic or architectural significance, the **Commission Board** shall enact a 30-day stay on the application to collect comments or testimony regarding the proposed demolition from interested parties and shall schedule a public hearing on an application for demolition of a structure with historic or architectural significance and shall provide notice as follows: as described in Section 5.2.

1. ~~Public Hearing Notice. The Commission shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Commission an affidavit from the newspaper confirming such publication and payment.~~
2. ~~Property owner notification:~~
  - a. ~~The applicant shall obtain from the City the names and addresses of property owners within a 250-foot geographic radius from the applicant's subject property.~~
  - b. ~~The applicant shall receive from the Commission a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 but no more than 20 calendar days prior to the scheduled hearing.~~
  - c. ~~Prior to the public hearing, the applicant shall submit to the Commission confirmation of the property owner notification by obtaining a "certificate of mailing" provided by the U.S. Postal Service.~~
  - d. ~~Failure to provide notice in exact conformance with these provisions shall not invalidate a Commission determination provided the Commission finds that substantial compliance has occurred.~~
3. In addition to the notification requirements noted above, a copy of the application shall be sent to

the Saratoga Springs Preservation Foundation for comment.

and findings of fact by which the original architectural review approval was granted have not significantly changed.

- D. Determination of Jeopardy to Health, Safety and Welfare of Community.** In cases where an applicant has sought demolition approval on the basis that a structure represents an imminent danger to the health, safety and welfare of the community, the **Commission Board** shall refer the application to the Building Inspector for review and report pursuant to City Code Section 118 Unsafe Structures. The Building Inspector's report shall be advisory to the **Commission Board**. The **Commission Board** shall review the Building Inspector's report and make a determination that the structure can or cannot reasonably be repaired in such a way as to remove the imminent danger. As part of this report, consideration should be given to the alternative of preserving prominent portions of the structure, such as the facade, for future adaptive re-use.
- E. Court Action.** The **Commission Board** shall have no authority to act otherwise in cases where an appropriate legal action or procedure has resulted in a judgment or order by a Court of competent jurisdiction that a structure endangers the health, safety and welfare of the public and shall be demolished.

### 5.7.7 Expirations and Extensions

- A.** Unless otherwise specified or extended by the **Commission Board**, **Commission Board** approvals shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.
- B.** The **Commission Board** may grant up to two 18 month extensions for architectural review approval provided that the application for extension was properly submitted prior to the expiration date of either the original architectural review approval or the first extension. When requesting an extension, it shall be the applicant's responsibility to demonstrate that there have been no significant changes to the site or neighborhood, and that the circumstances

## 5.8 HISTORIC REVIEW

## Note: Includes existing section 7.4.

The intent of this Section is to provide for the proper administration and review of projects within the designated Historic Review Districts, as defined in Article 2.4.3.

### Delegation to Design Review Commission

The Design Review Commission (“Commission”) Board (“Board”) is hereby charged with the responsibilities of administering and carrying out the intent, process and actions established in this Article Section and Article 7.5 “Architectural Review”.

### 5.8.1 Composition of Design Review Commission

## Note this subsection below will be removed in its entirety and located instead in city code Chapter 19.

- A. ~~Appointments. The Commission shall consist of seven members, to be appointed by the Mayor, to represent to the extent possible a broad cross-section of the community with demonstrated experience in historic preservation, architectural development and local history in addition to the following:
 
  1. ~~At least one shall have demonstrated commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field.~~
  2. ~~At least one shall be an architect or related design professional.~~
  3. ~~At least one shall be a local realtor or other real estate professional.~~
  4. ~~At least one shall have construction experience working with historic buildings.~~~~

~~All members shall be residents of the City of Saratoga Springs including at least one resident of a Historic District and one resident of an Architectural Review District.~~

- B. ~~Term of Office. The term of each Commission member shall be five years beginning on July 1 and members shall serve on a rotating schedule. Initial terms may be for lesser years so as to effectuate a staggered sequencing of member terms. On an alternating basis, two member~~

~~terms will expire one year with one member term expiring the next year. A member whose term has expired may serve until replaced.~~

- C. ~~Vacancy. If a vacancy occurs other than by expiration of a term, it shall be filled by appointment by the Mayor for the unexpired term.~~
- D. ~~Removal. Any member, or alternate member, may be removed by the Mayor for cause and after public hearing.~~
- E. ~~Alternate Members. The Mayor may appoint up to two alternate members to serve in the place of Commission members who are unavailable to attend a meeting due to recusal or other absence:
 
  1. ~~In the selection of alternate members, preference may be given to former Commission members or other residents that demonstrate the experience and knowledge considered for original appointments and as identified in 7.4.3 above.~~
  2. ~~Full Commission attendance is encouraged at all meetings. When fewer than six members are able to attend a meeting, alternate members shall be called upon to serve in the place of an absent member.~~
  3. ~~When serving in the place of a member, the alternate member shall have the full rights and obligations of a member. Alternate members not serving in place of a member may not participate as a Commission member in the discussion of agenda items at Commission meetings or workshops or any subcommittee thereof. In the event a Commission member is available to once again serve with regard to a matter because he/she is no longer absent or recused, the alternate member will no longer serve with regard to said matter.~~
  4. ~~All provisions of law relating to Commission member eligibility, terms, vacancy in office, removal, compatibility of office and service on other boards, training, continuing education, compensation, and attendance shall apply to alternate members, except that there shall be no requirement that an alternate member be a property owner in an historic or architectural review district.~~~~

### 5.8.2 Commission Powers and Duties

## Note: This subsection below has been deleted and moved into Article 1.

The Design Review Commission shall have and exercise the powers and duties as follows:

- A. Review and issue decisions on applications for historic review as required by this Article.
- B. Review and issue decisions on applications for architectural review as required by this Chapter.
- C. Promulgate rules and regulations for the transaction of Commission business.
- D. Submit an annual report of Commission activities to the Mayor and City Council.
- E. Submit an annual budget request to the Mayor for approval by the City Council.
- F. Employ experts, staff and legal counsel, or appoint such citizen advisory committees as may be required to carry out Commission duties within the Council-approved budget.
- G. Administer on behalf, and at the request, of the City Council any full or partial interest in real property that the City may have received.
- H. Accept and administer on behalf of the City such grants and funding as may be appropriate for the purposes of this Article.
- I. Recommend to the City Council the adoption of ordinances designating properties or structures having special historic, community, cultural or architectural value as landmarks or Historic Districts.
- J. Keep a register of all properties and structures that have been designated as landmarks or historic districts including all information required for each designation.
- K. Propose or sponsor the nomination of landmarks and historic districts to the National Register of Historic Places and review and comment on any National Register proposed nominations submitted to the City Council or State Historic Preservation Office.
- L. Maintain a directory of architectural styles.
- M. Develop specific design guidelines for the alteration, construction or removal of landmarks or property and structures within historic districts.
- N. Conduct surveys to identify historically and architecturally significant properties, structures, landmarks and areas that exemplify the cultural, social, economic, political or architectural history of the Nation, State or City.
- O. Inform and educate the citizens of Saratoga Springs concerning the historic and architectural heritage of the City.
- P. Advise and guide property owners on physical and financial aspects of preservation, renovation, rehabilitation and reuse, on procedures for inclusion on the National Register of Historic Places, and on participation in State and Federal historic preservation programs.
- Q. Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques or markers.
- R. Request advisory opinions from the City Council, the Planning Board and any other body, agency or department of the City on any matter before the Commission.
- S. Review and make advisory recommendations on any matter referred to the Commission by the City Council, the Zoning Board of Appeals, the Planning Board and any other body, agency or department of the City.
- T. Recommend to the City Council zoning amendments, policy initiatives and programs to protect historic properties and implement the intent and objectives of this Article.
- U. Develop a preservation component in the Comprehensive Plan of the City of Saratoga Springs and recommend it to the Planning Board and the City Council.
- V. Exercise all other powers conferred upon it by the City Council.

### 5.8.3 Historic Review Objectives

The Design Review ~~Commission~~ Board shall promote the following objectives:

- A. To prevent the demolition or destruction of significant structures, terrain, trees, landscape or scenic views.
- B. To eliminate existing incongruous structures or other blighting factors and prevent the creation of any new such conditions.
- C. To preserve and enhance the historic context and setting within the Historic District.
- D. To assure architectural compatibility such as aesthetic, historical and architectural values, architectural style, design, arrangement, texture, material and color.
- E. To encourage and maintain appropriate protective restrictions such as easements, covenants or similar agreements.
- F. To improve the integrity of the Historic Districts through economic and other incentives.

#### 5.8.4 Historic Review Standards

In pursuit of this ~~Article's~~ Section's objectives, the Design Review ~~Commission~~ Board shall employ the following standards:

- A. **Preserve rather than remove.** Distinguishing original features of a structure or site are essential to the historic quality and character of that site. Distinguishing original qualities or character of a structure, site and/or its environment shall be preserved and protected to the maximum extent possible. Destruction or alteration of any historic material or distinctive architectural feature should be avoided.
- B. **Repair rather than replace.** Distinctive architectural features that characterize a structure or site shall be repaired rather than replaced whenever possible. If replacement is necessary, the replacement materials should match the original in composition, design, color, texture and other visual qualities.
- C. **Promote historical accuracy.** Repair or replacement of architectural features should be based on historical evidence rather than on conjectural designs or the

incorporation of elements from other structures.

- D. **Recognize the significance of historical time periods.** Structures and sites should be recognized and preserved as products of specific historical period(s). Changes that occurred over time are evidence of the history and development of a structure or site and may have acquired historical significance in their own right.
- E. **Compatible contemporary design may be encouraged.** Contemporary design for alterations and additions to existing properties may be encouraged provided it does not destroy significant historical, architectural, or cultural material and is compatible with the size, scale, color, material, and character of the site or surrounding neighborhood. Incompatible alterations shall be discouraged.
- F. **Structures and sites are to be treated with sensitivity.** Archaeological resources affected by any project shall be protected and preserved to the maximum extent possible. Activities that will damage historic building materials or site features shall be discouraged. Historic structures are to be cleaned with the gentlest means possible.

#### 5.8.5 Design Considerations

For actions subject to review, the Board shall evaluate and determine if the design considerations of Article 2.4.2 Historic Review Overlay as well as the intent of the underlying district are being met.

- A. Applications proposing un-reversible exterior changes to a building with historic significance shall be required to provide notification with on-premise signage as described in Section 5.2.3.

#### 5.8.6 Demolition

Consideration of an application for demolition within any Historic District shall be the same as provided in section 5.6.7 for demolition within an Architectural Review District.

~~The Commission shall determine whether the proposed structure has architectural or historic significance. "Significance" includes having particular important associations within the context of the architecture, history or culture of Saratoga Springs or region and may include listing as "contributing" on the State and National Registers of Historic Places.~~

- A.** Structures with no architectural or historic significance. The Commission may approve an application for demolition if it finds that the demolition is consistent with the intent and objectives of this Article and that the structure proposed to be demolished has no historic or architectural significance.
- B.** Structures with architectural or historic significance. For the proposed demolition of a structure with architectural or historical significance, the applicant must demonstrate “good cause” as to why such structure cannot be preserved:
1. The applicant shall document “good faith” efforts in seeking an alternative that will result in the preservation of the structure including consultation with the Commission and the Saratoga Springs Preservation Foundation. The relocation of structures may be permitted as an alternative to demolition;
  2. The applicant shall document efforts to find a purchaser interested in acquiring and preserving the structure;
  3. The applicant shall demonstrate that the structure cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
  4. The applicant shall submit evidence that the property is not capable of earning a reasonable return regardless of whether that return represents the most profitable return possible. “Dollars and cents proof” shall be required to demonstrate such hardship.
  5. Application for demolition of a structure with historic or architectural significance shall include acceptable post-demolition plans of the site. Such plans shall include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project. The Commission may condition the issuance of a demolition approval on the applicant’s receipt of all other necessary approvals and permits for the post-demolition plan.
- C.** The Commission shall schedule a public hearing on an application for demolition of a structure with historic or architectural significance and shall provide notice as follows:
1. **Public Hearing Notice.** The Commission shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Commission an affidavit from the newspaper confirming such publication and payment.
- 2. Property owner notification:**
- a. The applicant shall obtain from the City the names and addresses of property owners within a 250-foot geographic radius from the applicant’s subject property;
  - b. The applicant shall receive from the Commission a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 but no more than 20 calendar days prior to the scheduled hearing;
  - c. Prior to the public hearing, the applicant shall submit to the Commission confirmation of the property owner notification by obtaining a “certificate of mailing” provided by the U.S. Postal Service;
  - d. Failure to provide notice in exact conformance with these provisions shall not invalidate a Commission determination provided the Commission finds that substantial compliance has occurred.
- D.** **Determination of Jeopardy to Health, Safety and Welfare of Community.** In cases where an applicant has sought demolition approval on the basis that a structure represents an imminent danger to the health, safety and welfare of the community, the Commission shall refer the application to the Building Inspector for review and report pursuant to City Code Section 118 Unsafe Structures. The Building Inspector’s report shall be advisory to the Commission. The Commission shall review the Building Inspector’s report and make a determination that the structure can or cannot reasonably be repaired in such a way as to remove the imminent danger.
- E.** **Court action.** The Commission shall have no authority to act otherwise in cases where an appropriate legal action or procedure has resulted in a judgment or order by a Court of competent jurisdiction that a structure endangers the health, safety and welfare of the public and shall be



~~demolished.~~

**F. Demolition of Historic Structures by City.** The

City, through its Code Enforcement Officers or other appropriate municipal officials, may seek demolition of a structure listed individually or as a contributing structure in an historic district on the National Register of Historic Places in New York Supreme Court under N.Y. Executive Law 382. Prior to filing such an application, the matter shall be referred to the **Commission Board** for an advisory opinion as to whether the structure can or cannot be reasonably repaired in such a way as to remove the cause for demolition. The **Commission Board** shall have 30 days to render a written advisory opinion unless extended by mutual consent. The City may also seek advisory recommendations from local preservation organizations.

### 5.8.7 Historic Review Application

- A. It shall be the duty of the Zoning Officer to refer to the **Commission Board** all actions identified in this **Article Chapter** that require historic review approval.
- B. The **Commission Board** shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for historic review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have the permission of the current property owners to submit an application for historic review approval.
- D. The City shall collect a fee for all applications to the **Commission Board** as established by the City Council.

### 5.8.8 Advisory Opinion

The **Commission Board** may request an advisory opinion of the Planning Board or any administrative department or agency in its evaluation of an application for historic review.

### 5.8.9 Historic Review Decisions

- A. In rendering its decision on any application, the **Commission Board** shall comply with all applicable provisions of the State Environmental Quality Review

Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.

- B. Within 62 days of the determination by the **Commission Board** that the application is complete, or the close of the public hearing, a written decision shall be issued. This time frame may be extended by mutual consent of the applicant and the **Commission Board**.
- C. Four affirmative votes are required to pass a motion regarding an application before the **Commission Board**. If four affirmative votes cannot be attained on a motion within this 62-day period, unless extended by mutual consent of the applicant and the **Commission Board**, the application shall be denied by default.
- D. The **Commission Board** may issue any of the following decisions:
  1. **Approve as submitted.**
  2. **Approve with conditions.** The **Commission Board** may impose appropriate conditions in connection with its approval including those related to:
    - a. Nature and quality of building materials
    - b. Manner of construction
    - c. Design and other building elements
  3. **Preliminary approval.** Prior to the granting of final approval by the **Commission Board**, an applicant may seek “preliminary approval” for the general “mass and scale” of a proposed structure. This preliminary approval is subject to a SEQRA determination and constitutes approval of the footprint and proportions of the proposed structure, including any proposed rooftop structures, and its compatibility with the surrounding neighborhood. Such preliminary approval does not constitute approval of elevations and other façade and roofline details. Unless so noted within the preliminary approval, an applicant must obtain final approval by the **Commission Board** prior to issuance of a building permit.
  4. **Disapprove.** The **Commission Board** may disapprove an application provided the **Commission Board** finds that such construction, alteration or demolition would be in opposition to the intent and objectives of this Article, and that this finding is not based on personal preference as to taste or choice of architectural style.

- E. Every **Commission Board** decision shall be signed and dated by the **Commission Board Chairperson** and shall document the circumstances of the case and the findings on which the decision is based.
- F. Every **Commission Board** decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.
- G. **Consent Agenda. Administrative, noncontroversial or routine items may be placed on the Design Review Board Consent Agenda as described in Section 5.3. Administrative Approval. The Chairperson shall have the authority to approve minor modifications to existing Commission approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Commission.**
- H. Building Permits, Inspections and Certificates of Occupancy
1. Upon receipt of Historic Review approval and confirmation of compliance with any required conditions, the Building Department may issue building, sign or demolition permits associated with the Historic Review application. No building, sign or demolition permit shall be issued in the event of Historic Review disapproval.
  2. For actions subject to Historic Review but not requiring a building, sign or demolition permit, the Building Department shall perform inspections as may be necessary to confirm compliance with **Commission Board** approval and any required conditions.
  3. Upon confirmation of the completion of an approved action requiring Historic Review, and any required conditions, the Building Department may issue a certificate of occupancy.

### 5.8.10 Expirations and Extensions

- A. Unless otherwise specified or extended by the **Commission Board**, **Commission Board** approvals shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise

implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.

- B. The **Commission Board** may grant up to two 18 month extensions for historic review approval provided that the application for extension was properly submitted prior to the expiration date of either the original historic review approval or the first extension. When requesting an extension, it shall be the applicant's responsibility to demonstrate that there have been no significant changes to the site or neighborhood, and that the circumstances and findings of fact by which the original historic review approval was granted have not significantly changed.

### 5.8.11 Designation of Landmarks and Historic Districts

- A. The City Council of the City of Saratoga Springs may designate an individual property as a landmark if it:
1. Possesses special character or archeological, historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
  2. Is identified with historically significant individuals;
  3. Embodies the distinguishing characteristics of an architectural style;
  4. Is the work of a designer whose work has significantly influenced a particular architectural period or era; or
  5. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The City Council may designate a group of properties as a Historic District if it:
1. Contains properties that meet one or more of the criteria for designation of a landmark; or
  2. By reason of possessing such qualities, constitutes a distinct section of the City.
- C. Any proposed designation of landmarks or historic districts shall constitute an amendment to this Chapter and shall be subject to all public hearing, property owner notification

and other applicable provisions of this Chapter.

1. Once the City Council has accepted for review a proposed designation, no building or demolition permits shall be issued until the City Council has made its designation determination.
2. Prior to action on a proposed designation, the City Council shall request an advisory opinion from the ~~Commission Board~~. The ~~Commission Board~~ shall have 30 days to render a written advisory opinion unless extended by mutual consent. The opinion shall contain a favorable recommendation only if the ~~Commission Board~~ finds that the proposed revision is not contrary to the intent and objectives of this Article.

### 5.8.12 City Landmarks and Historic Districts

The Historic Districts and City Landmarks shall be as indicated on the Official Zoning Map, which can be found at the City Office of Planning and Economic Development and at [www.saratoga-springs.org](http://www.saratoga-springs.org). A listing of City Landmarks is also provided in Article 2.4.2.

## 5.9 STORMWATER MANAGEMENT

**## Note:** This subsection includes Chapter 242 Stormwater Management, and 7.3.2 Storm Water Pollution Prevention.

### 5.9.1 Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the City Council of Saratoga Springs has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the City of Saratoga Springs and for the protection and enhancement of its physical environment. The City Council of Saratoga Springs may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law. **## Note:** Previously was moved to Article 1, however need to keep here. Must delete duplicate language in Article 1.

### 5.9.2 Findings of Fact

It is hereby determined that:

- A. Land disturbance activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;

- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from land disturbance activities;
- H. The regulation of stormwater runoff discharges from land disturbance activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land disturbance activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.
- J. The boundaries of the City's Municipal Separate Sewer System (MS4) is defined as the entire City of Saratoga Springs, and all lands within its corporate limits.
- K. [NEW item by Blue Neils - cannot find source]
- L. [NEW item by Blue Neils - cannot find source]

### 5.9.3 Intent Purpose

The purpose of this [Chapter Section](#) is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in [242-1 5.9.2](#) hereof. This Chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Control Measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. [GP-0-10-002](#) [GP-0-15-003](#) or as amended or revised;
- B. Require land disturbance activities to conform to the substantive requirements of the NYS Department of

Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities [GP-0-10-001](#) [GP-0-15-002](#) or as amended or revised;

- C. Minimize increases in stormwater runoff from land disturbance activities in order to reduce flooding, siltation, increases in stream temperature, and stream-bank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land disturbance activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

### 5.9.4 Stormwater Management Officer

- A. The City designates the City Engineer as the Stormwater Management Officer. The Stormwater Management Officer shall accept and review all Stormwater Pollution Prevention Plans and forward such plans to the applicable City board. The Stormwater Management Officer may:
  1. Review the plans,
  2. Upon approval by the City Council, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by the City Council, or,
  3. Accept the certification of a licensed professional that the plans conform to the requirements of this Chapter.

### 5.9.5 Applicability

The requirements of this [Chapter Section](#) shall be applicable to all land disturbance activities as defined in this Chapter.

- A. All land disturbance activities subject to review and approval by the City Planning Board under subdivision,

site plan, special use permit, and/or land disturbance activity regulations shall be reviewed subject to the standards contained in this Chapter.

- B.** All other land disturbance activities not subject to review by the Planning Board but subject to 242-7A shall also be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this Chapter.
- C.** Exemptions. The following activities may be exempt from review under this [Chapter Section](#).
1. Agricultural activity as defined in this Chapter.
  2. Silvicultural activity except that [land landing](#) areas, log haul roads, and the removal of stumps are subject to this [Chapter Section](#).
  3. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
  4. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
  5. Any part of a subdivision if a plat for the subdivision has received final approval from the Planning Board on or before the effective date of this Chapter.
  6. Land development activities for which a building permit has been approved on or before the effective date of this Chapter.
  7. Cemetery graves.
  8. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
  9. Emergency activity immediately necessary to protect life, property or natural resources.
  10. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
  11. Landscaping and horticultural activities in connection with an existing structure.

### 5.9.6 Stormwater Pollution Prevention Plans (SWPPP)

- A. Applicability.** The following land disturbance activities shall be subject to the storm water management requirements and controls as established in [Chapter 242 of the Code of the City of Saratoga Springs this subsection, including the submission of a Stormwater Pollution Prevention Plan \(SWPPP\) as follows:](#)
1. **Residential Development (consisting of Single and Two-Family Development):**
    - a. Residential development activities that involve land disturbance of 1.0 acre ~~to~~ [but less than](#) 5.0 acres shall require the submission of a “Basic” SWPPP.
    - b. Residential development activities that involve land disturbance [exceeding of](#) 5.0 [or more](#) acres shall require the submission of a “Full” SWPPP.
  2. **Non-residential and Mixed-use Development:**
    - a. Non-residential and mixed-use development activities that involve land disturbance [exceeding of](#) 0.1 acre or more shall require the submission of a “Full” SWPPP.
  3. **All Development Types:** Stormwater runoff from land disturbance activities directly discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment [shall require the submission of a “Full” SWPPP. Applicable SWPPP review fees must be paid to the city prior to review of any SWPPP.](#)

*## Note: Provisions from 7.3.2 above were kept because they are less ambiguous than conflicting provisions from Ch. 242 shown deleted below:*

~~1. Basic SWPPP (soil and sediment control) required for residential activities disturbing land of 1.0 to 5.0 acres:~~

~~2. Full SWPPP (soil and sediment control and post construction controls) required for residential activities disturbing 5.0 acres or more:~~

~~3. Full SWPPP (soil and sediment control and post construction controls) required for non-residential activities disturbing 0.1 acre or more:~~

*## Note: The following land development activities have been recommended to be included in the UDO to coordinate with the most recent NYSDEC Stormwater Model Law, which would*

replace the thresholds listed above. For discussion.

- B.** Land development activities as defined in this Chapter that disturb one or more acres of land and are listed in sub-sections 1 through 12 below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) designed in accordance with the most current version of the New York State Stormwater Management Design Manual:
1. Single-family residential subdivisions that involve soil disturbances of between one (1) and five (5) acres of land with greater than 25% total impervious cover at total site build-out;
  2. Single-family residential subdivisions that involve soil disturbances of five (5) or more acres of land, and single-family residential subdivisions that involve soil disturbances of less than five (5) acres that are part of a larger common plan of development or sale that will ultimately disturb five or more acres of land;
  3. Multifamily residential developments, including townhomes, condominiums, senior housing complexes, apartment complexes, and mobile home parks;
  4. Athletic fields with artificial turf; Airports; Amusement parks; Campgrounds; Commercial developments; Churches and other places of worship; Golf courses; Institutional facilities, including hospitals, prisons, schools and colleges; Industrial facilities, including industrial parks; Landfills; Office complexes; Sports complexes; Racetracks, includes racetracks with earthen (dirt) surface;
  5. Cemeteries that include the construction or reconstruction of impervious area that is greater than 5% of the disturbed area, or alter the hydrology from pre- to - post development conditions;
  6. Construction of a barn or other agricultural building (e.g., silo) and structural practices as identified in Table II in the Agricultural Management Practices Catalog for Nonpoint Source Pollution in New York State that include the construction or reconstruction of impervious area, excluding projects that involve soil disturbances of less than five acres;
  7. Municipal facilities; including highway garages, solid waste transfer stations, office buildings, sewage treatment plants and water treatment plants;

8. Road construction or reconstruction;
9. Parking lot construction or reconstruction;
10. Athletic fields (natural grass) that include the construction or reconstruction of impervious area (greater than 5% of disturbed area) or alter the hydrology from pre-development to post-development conditions;
11. Permanent access roads or parking areas surfaced with impervious cover, and substations constructed as part of an overhead electric transmission line project, wind power project or cell tower project; and,
12. All other construction activities, not listed above, that include the construction or reconstruction of impervious area and alter the hydrology from pre-development to post-development conditions.

### 5.9.7 Contents of Stormwater Pollution Prevention Plans (SWPPP)

- A. Contents of Basic SWPPP.** Basic SWPPPs shall provide the following background information and erosion and sediment controls:
1. Background information about the scope of the project, including location, type and size of project;
  2. Site map/construction drawing(s) for the project at a scale no smaller than 1"=100', including a general location map. At a minimum, the site map shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; protection methods for trees and vegetation within the right-of-way (R.O.W.), on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final grades (5 foot contour interval max); material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
  3. Delineation and description of the soil(s) present at the site, including an identification of the Hydrologic Soil Group (HSG); test pit or soil boring information as required by the Stormwater Management Officer;
  4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the

- site that results in soil disturbance. Consistent with most current version of the New York State Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres (or as currently specified) shall be disturbed at any one time unless pursuant to an approved SWPPP and prior written authorization from the City's Stormwater Management Officer;
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
  6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
  7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project completion and achievement of final soil stabilization. Measures shall meet the requirements of the most current version of the technical standard, New York State Standards and Specifications for Erosion and Sediment Control;
  8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
  9. Dimensions, material specifications, installation details, and operation and maintenance requirements for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  10. Temporary practices that will be converted to permanent control measures;
  11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement or implementation of each erosion and sediment control practice and duration that each practice should remain in place or be implemented;
  12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice. The maintenance schedule shall be in accordance with the requirements in the most current version of the technical standard, New York State Standards and Specifications for Erosion and Sediment Control;
  13. Name(s) of the receiving water(s);
  14. Delineation of SWPPP implementation responsibilities for each part of the site;
  15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  16. Any existing data that describes the stormwater runoff at the site.
- B. Contents of Full SWPPP.** ~~Land disturbance activities as defined in this Chapter and meeting Condition "A", "B" or "C" below shall also be required to prepare and submit a Full SWPPP which includes Basic SWPPP requirements in addition to water quantity and water quality controls (post-construction stormwater runoff controls) as set forth below:~~ Full SWPPPs shall provide the following background information and erosion and sediment controls in addition to post-construction water quantity and water quality controls:
- ~~Condition A – Stormwater runoff from land disturbance activities directly discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.~~
- ~~Condition B – Stormwater runoff from residential development activities involving land disturbance of five (5) or more acres.~~
- ~~Condition C – Stormwater runoff from non-residential development involving land disturbance of 0.1 acre or more:~~
1. ~~All information in Section 242-7(B)(1) of this Chapter~~ All the required information for a Basic SWPPP above;
  2. Description of each post-construction stormwater management practice;
  3. Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  4. Hydrologic and hydraulic analysis for all structural components of the stormwater management system

for the applicable design storms;

5. Comparison of post-development stormwater runoff conditions with pre-development conditions;
6. Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7. Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
8. Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
9. Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with this [Chapter Section](#).
10. The SWPPP shall be prepared by a landscape architect, ~~certified professional~~ or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices met the requirements in this [Chapter Section](#).

**5.9.8 Other Environmental Permits**

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land disturbance activity prior to approval of the final stormwater design plan.

**5.9.9 Contractor Certification**

- A. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land disturbance activity:
 

“I hereby certify that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System

(“SPDES”) general permit for stormwater discharges from construction activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings.”

- B. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C. The certification statement(s) shall become part of the SWPPP.

**5.9.10 On-Site Copy**

A copy of the SWPPP shall be retained at the site of the land disturbance activity from the date of initiation of construction activities to the date of final soil stabilization.

- A. Performance & Design Criteria
- B. Reference to Enforcement section in Article 8

**5.9.11 Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control**

All land disturbance activities shall be subject to the following performance and design criteria:

- A. **Technical Standards.** For the purpose of this [Chapter Section](#), the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:
  1. New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation), ~~2010~~ [January 2015](#), most current version or its successor, hereafter referred to as the Design Manual).
  2. New York State Standards and Specifications for



Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004 November 2016, most current version or its successor, hereafter referred to as the Erosion Control Manual).

- B. Equivalence to Technical Standards.** Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in this [Chapter Section](#) and the SWPPP shall be prepared by a licensed professional.
- C. Water Quality Standards.** Any land disturbance activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

### 5.9.12 Maintenance and Repair of Stormwater Facilities

**A. Maintenance and Inspection During Construction**

1. The applicant or developer of the land disturbance activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this [Chapter Section](#). Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
2. ~~For land disturbance activities as defined in this Chapter and meeting Condition A, B or C in Section 242-7, For all SWPPP's undergoing site disturbance,~~ the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days ~~and within 24 hours of any storm event producing 0.5 inches of precipitation or more.~~ Soil disturbances five acres or more in size at any one time shall require two site inspections every 7 days. Inspection reports shall be maintained in a log book and be kept on-site along with the approved SWPPP.
3. An [erosion and sediment control](#)-trained contractor shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment

control practices.

- B. Maintenance Easement(s).** Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City of Saratoga Springs to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this [Chapter Section](#). The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the City of Saratoga Springs.

- C. Maintenance After ~~Construction~~ Construction.** The owner or operator of permanent stormwater management practices installed in accordance with this [Chapter Section](#) shall ensure that they are operated and maintained to achieve the goals of this [Chapter Section](#). Proper operation and maintenance also includes as a minimum, the following:

1. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this [Chapter Section](#).
2. Written procedures for operation and maintenance and training new maintenance personnel.
3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with this [Chapter Section](#).

- D. Maintenance Agreements.** The City of Saratoga Springs shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of [Schedule A](#) of this Chapter entitled Sample Stormwater Control Facility Maintenance Agreement. The City of Saratoga Springs, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility

meets all the requirements of this [Chapter Section](#) and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

### 5.9.13 Administration and Enforcement

#### A. Construction Inspection

**1. Erosion and Sediment Control Inspection.** The City of Saratoga Springs Stormwater Management Officer may conduct such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the Stormwater Pollution Prevention Plan (SWPPP) as approved. To schedule inspections, the applicant must notify the Stormwater Management Officer at least 48 hours in advance before any of the following as required by the Stormwater Management Officer:

- a. Start of construction
- b. Installation of sediment and erosion control measures
- c. Completion of site clearing
- d. Completion of rough grading
- e. Completion of final grading
- f. Close of the construction season
- g. Completion of final landscaping
- h. Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

**2. Stormwater Management Practice Inspections.** The City of Saratoga Springs Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs) after final construction is completed. All applicants are required to submit “as built” plans for any stormwater management practices located on-site. The plan must show the final design specifications for all stormwater

management facilities and must be certified by a professional engineer verifying all practices have been constructed in conformance with the SWPPP and are operational.

#### 3. Inspection of Stormwater Facilities After Project Completion.

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

**4. Submission of Reports.** The City of Saratoga Springs Stormwater Management Officer may require requires yearly monitoring and reporting from entities subject to this [Chapter Section](#) as are necessary to determine compliance with this [Chapter Section](#). Yearly inspection reports of post-construction stormwater management practices shall be submitted to the City Engineer’s office on an annual basis.

**5. Right-of-Entry for Inspection.** When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the City of Saratoga Springs the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in [subsection 3 above](#).

#### B. Performance Guarantee

**1. Construction Completion Guarantee.** In order to ensure the full and faithful completion of all land disturbance activities related to compliance with all

conditions set forth by the City of Saratoga Springs in its approval of the Stormwater Pollution Prevention Plan, the City of Saratoga Springs may require the applicant or developer to provide, prior to construction, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City of Saratoga Springs as the beneficiary. The security shall be in an amount to be determined by City of Saratoga Springs based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City of Saratoga Springs, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the City of Saratoga Springs. ~~Per-annum interest on cash-escrow deposits shall be reinvested in the account until the surety is released from liability.~~ Annual interest on escrow deposits shall be re-invested in the account until the escrow is released.

**## Note:** Confirm if the entire above paragraph can be eliminated and instead point to common "Performance Guarantee" section 5.20, or if this needs to remain as a specific condition.

**2. Maintenance Guarantee.** Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City of Saratoga Springs with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the City of Saratoga Springs may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

**3. Record-keeping.** The City of Saratoga Springs may require entities subject to this law to maintain records demonstrating compliance with this [Chapter Section](#).

**C. Enforcement and Penalties.** **## Note:** It had been intended that all enforcement and penalties of the UDO would be collected and combined under Article 8, however it is no longer clear if that is the best solution. Should discuss.

**1. Notice of Violation.** When the City of Saratoga Springs determines that a land disturbance activity is not being carried out in accordance with the requirements of this [Chapter Section](#), it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- a. The name and address of the landowner, developer or applicant;
- b. The address when available or a description of the building, structure or land upon which the violation is occurring;
- c. A statement specifying the nature of the violation;
- d. A description of the remedial measures necessary to bring the land disturbance activity into compliance with this [Chapter Section](#) and a time schedule for the completion of such remedial action;
- e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- f. A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

**2. Stop Work Orders.** The City of ~~Saratoga Springs~~ [Engineer](#) may issue a stop work order for violations of this [Chapter Section](#). Persons receiving a stop work order shall be required to halt all land disturbance activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the City of Saratoga Springs confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement

measures authorized in this Chapter.

3. **Violations.** Any land disturbance activity that is commenced or is conducted contrary to this Chapter may be restrained by injunction or otherwise abated in a manner provided by law.
  4. **Penalties.** In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this **Chapter Article** shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this **Chapter Section** shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
  5. **Withholding of Certificate of Occupancy.** If any building or land disturbance activity is installed or conducted in violation of this **Chapter Section** the Stormwater Management Officer may prevent the occupancy of said building or land.
  6. **Restoration of lands.** Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City of Saratoga Springs may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- D. **Fee for Services.** The City of Saratoga Springs may require any person undertaking land disturbance activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the City of Saratoga Springs or performed by a third party for the City of Saratoga Springs.

- E. **Sample Maintenance Agreement.** Please refer to [Appendix B](#) for a sample "Stormwater Control Facility Maintenance Agreement".

## 5.10 LAND DISTURBANCE PERMIT

This section is intended to protect the City's natural environment by minimizing the adverse effects which site preparation and associated construction activities may have on soil, water, and vegetative resources.

### 5.10.1 Activities Requiring Permit and Exemptions

A Land Disturbance Activity Permit shall be required before undertaking the following activities: ~~## Note: Need to revise these provisions below to coordinate with Section 5.9 Stormwater, since there is overlap.~~

- A. Within the Rural Residential-1 district: any activity affecting ~~1.5~~ 1.0 or more acres that changes the natural topography, removes or disturbs the topsoil, or removes more than 15% of trees over 4 inches in diameter at breast height (dbh).
- B. Any other district: any activity affecting 0.5 or more acres that changes the natural topography, removes or disturbs the topsoil or removes more than 15% of trees over 4 inches in diameter.

### 5.10.2 Exempt Activities-Activities Exempt From Permit

The following activities shall be exempt from permit:

- A. Agricultural activities directly related to the production of crops or livestock, excluding timber harvesting.
- B. ~~Forest management practices or noncommercial tree cutting for firewood that does not remove more than 15% of trees over 4 inches in diameter. ## Note: Already covered in 5.10.1 B above.~~
- C. Authorized governmental activities.
- D. Bona fide emergencies.

### 5.10.3 Permit Application Process

- A. For all activities that require a land disturbance activity permit, application may be made directly to the Planning

Board or as a referral by the Zoning Enforcement Officer. To the extent practicable, the Planning Board shall coordinate review of the land disturbance activity permit with associated subdivision or site plan review applications. [Land Disturbance Permit applications can be found on the city website under Building Department.](#)

- B. Applications for land disturbance activity permits shall be on forms prescribed by the Planning Board, shall include a soil erosion and sediment control plan (~~basic SWPPP~~) [as described below](#), and shall be accompanied by a fee as established by the City Council. The Planning Board may waive the fee if review is conducted in association with subdivision or site plan review. [Refer to Section 5.9.7 for the requirements of a soil erosion and sediment control plan.](#)
- C. In its review, the Planning Board may approve the application if it finds that the soil erosion and sediment control plan will adequately minimize the impact of the proposed land disturbance activity upon the City's land and water resources.
- D. A Soil Erosion and Sediment Control Plan shall include a sketch plan that fully identifies the proposed activity, extent of soil and vegetative alterations or tree harvesting, and the land protection and structural soil conservation measures to minimize soil erosion and sediment loss. Such plan should be at a scale of 1" = 100' and include the following:
  1. General topographic data, soil conditions, and vegetative cover type.
  2. All watercourse, wetlands, rock outcrops and other important land features (including all 100 year federally designated flood hazard and New York State regulated wetlands).
  3. The location of all proposed public utilities including water supply, sewerage, and storm water drainage facilities to be constructed.
  4. Any other information that the Planning Board may deem necessary for review of the project.
- E. The Planning Board may require a performance guarantee to ensure that all necessary erosion and sediment control measures are completed and maintained adequately. The amount of the letter of credit, or other financial security, ~~will~~ [shall](#) not exceed \$1,000 per acre.

- F. Unless otherwise specified or extended by the Planning Board, a land disturbance activity permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started the activity, or otherwise implemented this approval.
- G. The Planning Board may grant up to two 18-month extensions for an approved land disturbance activity permit provided that the application was properly submitted prior to the expiration date of either the original land disturbance activity permit or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.
- H. Unless waived by the Planning Board, construction inspections by the Storm Water Management Officer, or designee, shall be required for all land disturbance activity permits. The construction inspections requirements shall be identical to those set forth in [Article 7.2.16](#).
- I. Unless waived by the Planning Board, upon completion of the approved activity an as-built drawing shall be filed with the Planning Board. The requirements for an as-built drawing shall be identical to those set forth in [Appendix B](#).

#### 5.10.4 Fines

- A. Violation of this Section by removal or clearing without a Land Disturbance Permit is punishable by a fine up to but not exceeding \$1000 per acre of affected land. **Note:** Also may want to discuss an additional penalty of having such property forgo any Site Plan approvals for a period of 1 year.

## 5.11 WATERCOURSE ACTIVITY PERMIT

Watercourse Activity Permits are administered by the City Planning Board, and are required for certain activities within the Watercourse Protection Overlay District. Refer to Article 2.4 for more information. Watercourse Activity Permit applications can be found on the city website, under [Department]. **Note:** Currently these are not available.

**Note:** The following is from existing section 3.6.4

### 5.11.1 Permit Application Process

- A. For all activities that require a watercourse activity permit, application may be made directly to the Planning Board or as a referral by the Zoning Officer. To the extent practicable, the Planning Board shall coordinate review of the watercourse activity permit with associated subdivision or site plan review applications.
- B. Applications for watercourse activity permits shall be on forms prescribed by the Planning Board, shall include plans and details as required, and shall be accompanied by a fee as established by the City Council.
- C. In its review, the Planning Board may approve the application if it finds:
  1. That issuance of the permit will not violate the intent or standards listed in Article 2.x.x for the Watercourse Protection District, and; ~~That there is no reasonable alternative, and;~~
  2. That there is no reasonable alternative. ~~That issuance of the permit will not violate the intent of this Section~~
- D. The Planning Board may require a performance guarantee to ensure that all necessary erosion and sediment control measures are completed and maintained adequately.
- E. Unless otherwise specified or extended by the Planning Board, a watercourse activity permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and has not begun actual construction, or otherwise implemented this approval.
- F. The Planning Board may grant up to two 18-month

extensions for an approved watercourse activity permit provided that the application was properly submitted prior to the expiration date of either the original watercourse activity permit or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

## 5.12 SIGN PERMIT

Sign Permits are administered by the Building Department. All signs requiring a Sign Permit shall be in accordance with the design standards of Article 4.13 Signs. Sign Permit application forms may be found on the city website under Building Department. ## Note: Currently these are not available.

### 5.12.1 General

- A. Signs proposed for properties within the Architectural Review District, Historic District or on City Landmarks shall require review and approval by the Design Review Board prior to a permit being issued.
- B. Sign Permit applications for sandwich board signs are administered separately from other signs. Application forms for these can be found on the city website under Building Department.

## Note: The following subsection is taken from existing section 6.1.8. This may be moved to Article 8 Enforcement.

### 5.12.2 Enforcement

- A. Upon finding that a sign or sign structure is in violation of this Article Chapter, the Zoning Officer shall give written notice to the property owner or responsible entity noting the following:
  1. The nature and specific details of the violation;
  2. The recommended action to correct the violation; and,
  3. The date by which the violation must be corrected.
- B. Should the property owner or responsible entity fail to comply with the notice ~~within 10 days;~~ by the due date, they shall be fined up to \$50 per day for each subsequent day until the violation is corrected or the sign is removed.

Should the owner or responsible entity continue to fail to comply with the notice, the sign or sign structure shall may be removed or altered to comply with the notice at the expense of the property owner or responsible entity.

- C. Upon finding that a sign or sign structure presents an immediate threat to public health, welfare and safety, the Zoning Officer may remove this threat without notice. Any expense incurred shall be paid by the property owner or responsible entity.

## 5.13 RENEWABLE ENERGY PERMITS

### 5.13.1 Solar Photovoltaic (PV) Permits

Solar PV Permits are administered by the City Building Department. Solar Permit applications can be found on the city website under Building Department.

- A. Solar installations proposed for properties within the Architectural Review District, Historic District or on the City Landmarks shall be in accordance with the design standards of Article 4 and shall require review and approval by the Design Review Board prior to a permit being issued.
- B. **Small Scale Roof Installations.** Small Scale Roof Mount solar installations may be eligible to apply for a permit using the New York State Unified Solar Permit application from the City, which allows for expedited administrative approval. To determine if you are eligible, you may use the eligibility checklist in the application, which is available on the city website under Building Department.
- C. **Other Installations.** Solar installations, including Small Scale Ground Mount, Large Scale Roof Mount and Large Scale Ground Mount which are not eligible to apply for a permit using the Unified Solar Permit above shall instead obtain a building permit and may be required to obtain site plan and special permit approval. Refer to Article 3 for specific use requirements.

### 5.13.2 Solar Thermal Permits

Solar (Thermal) Permits are administered by the City Building Department. Solar Permit applications can be found on the city website under Building Department.

- A. The requirements for Solar Thermal Permits shall be the same as those identified above for Solar Photovoltaic Permits above.

### 5.13.3 Geothermal & Heat Pump Permits

## Note: This subsection was recommended to be added by the TRAC to cover other renewable energy installations, however there does not appear to be a current permitting system in place for these by the city. Need to discuss if these would be a separate permit, combined under a larger 'renewables' permit, what the requirements might be, or if it is needed.

Geothermal and Heat Pump Permits are administered by the City Building Department. Permit applications can be found on the city website under Building Department.

### 5.13.4 Electric Vehicle Charging Permit

## Note: This subsection was recommended by the TRAC to create a permitting process for electric vehicle charging stations, for both commercial and residential installations. It is not known if this is really necessary. Alternately, it is recommended that this not requirement not be included, and that instead any Vehicle Charging Terminals be simply required to meet New York State and local electrical codes and be installed by a licensed electrician as outlined in Article 3.

Electric Vehicle Charging Permits (also known as Electric Vehicle Supply Equipment - EVSE) are administered by the City Building Department. Permit applications can be found on the city website under Building Department.

- A. Level 1 Charging Stations, permitted in private residential homes and not intended for public use, do not require a permit. Level 1 Charging Stations are not permitted for commercial installations or those designed for public use.
- B. Level 2 Charging Stations, for both residential and commercial installation, require an Electric Vehicle Charging Permit, and shall submit the following information:
1. Layout Plan. A drawing illustrating to scale the proposed layout of parking spaces and clearances to all adjacent structures, equipment, parking spaces, pedestrian areas or vehicle travel lanes.
  2. Manufacturer's Data. A copy of the EVSE manufacturer's installation instructions and

specification sheets.

3. Wiring Diagram. Wiring diagram illustrating the proposed system, EVSE equipment and connection point to the power supply.
  4. Electrical Load Calculations. Copies of a calculation sheet prepared by a licensed electrical contractor that certify existing electrical capacity, estimated load from the EVSE, and that the existing service will handle the additional load.
- C. Level 3 Charging Stations for both residential and commercial installation, require an Electric Vehicle Charging Permit, and shall submit the same information as required for a Level 2 station above.
- D. After review and approval of the permit application, the installation shall be inspected by the Building Department for compliance before the system may be authorized for use.

## Note: the above information and requirements need to be carefully reviewed, and should be instead listed on the actual permit application when it is eventually created.



## 5.14 TREE WORK PERMIT

Tree Work Permits are administered by the City Department of Public Works. Tree Work Permit applications can be found on the city website, under [INSERT] ## Note: Currently these are not available.

### 5.14.1 Permit Required

- A. No work shall be conducted on or adjacent to any trees within the public highways or public places of the City of Saratoga Springs without a permit from the Department of Public Works.
- B. Activities Requiring a Permit. The following activities shall require a Tree Work Permit:
1. Destruction, removal, cutting, pruning, root excavation or disease or insect treatment of any tree, plant or shrub within the public highway or public places.
  2. Construction activities, including sidewalk construction, repair or replacement, within the drip line of a public tree that may be damaging to the tree.

~~## Note: The following paragraphs have been moved from existing code Chapter 220. Chapter 220 will need to be revised accordingly, with a reference added to permits required in this chapter.~~

3. ~~Any person, firm or corporation or officer or employee of a corporation desiring for any lawful purpose to remove, destroy, cut, prune, treat with a view to its preservation from disease or insects or trim any tree, plant or shrub in or upon any public highway or public place shall make application to the Commissioner of Public Works at the Department of Public Works.~~ Such application must state the number and condition of the nearest trees to be trimmed, removed or treated and the kind and condition of the nearest trees upon the adjoining property.
4. If, in the judgment of the Commissioner of Public Works and/or the City Forester, the desired removing, cutting, pruning, treatment or trimming shall appear necessary due to public safety concerns or the health of the tree, and the proposed method and workmanship thereof shall be such as such Commissioner of Public Works and/or the City Forester may approve, the Department of Public Works may thereupon issue a written permit for such

work. Any work done under such written permit must be performed in strict accordance with the terms thereof and the provisions of ~~this chapter~~ Chapter § 220 Trees.

5. In consideration of whether a permit should be issued, the Commissioner shall consider the age and size of the tree and its contribution to the visual landscape, with preference given to protect older-growth and "heritage" trees. In lieu of granting the permit as requested, the Commissioner may grant a conditional or amended permit which limits the work performed.
  6. Any tree which is removed or destroyed within the highways or public places of the city shall be replaced by the Department of Public Works within one year by a new tree planting in the immediate vicinity, unless such replanting is unfeasible.
- C. All trees within the public highways or public places of the City of Saratoga Springs are otherwise governed and protected by City Code Chapter § 220 Trees.

### 5.14.2 Fines

~~## Note: The following paragraph has been moved from existing code Chapter 220~~

- A. Except upon order of the Department of Public Works, it shall be unlawful for any person, firm or corporation or the officer or employee of a corporation without a written permit from the Department of Public Works to remove, destroy, cut, break, climb or injure any tree, plant or shrub or portion thereof or misuse or remove any device set for their protection, that is planted or growing in or upon any public highway or public place within the City of Saratoga Springs or cause, authorize or procure any person to do the same, remove, destroy, cut, break, climb or injure any such tree or shrub or portion thereof or to injure, misuse or remove or cause, authorize or procure any person to injure, misuse or remove any device set for the protection of any tree, plant or shrub in or upon any public highway or public place. Fines for willfully conducting such actions without prior approval of the Department of Public Works shall be as follows:
1. Cutting, pruning, root excavation or other action which does not destroy or likely endanger the life of the tree: \$50.
  2. Actions which destroy or likely endanger the life of a

tree with less than 10 inch caliper (diameter breast height): \$250.

3. Actions which destroy or likely endanger the life of a tree with 10 to 20 inch caliper (diameter breast height): \$1000.
  4. Actions which destroy or likely endanger the life of a tree with greater than 20 inch caliper (diameter breast height) or city heritage trees: \$5000.
- B. Fines collected under this provision shall be added to and used for the funding for the purchase and planting of new trees within the public highways and public places of the city.

### 5.14.3 Responsibility & Liability

- A. Nothing contained in this section shall be deemed to impose any liability upon the city, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the city.

## 5.15 DEMOLITION PERMIT

Demolition Permits are administered by the City Building Department as a type of Building Permit. All Building or Demolition Permits shall be required and issued according to the provisions of City Code Chapter § 118-4. Demolition Permit applications can be found on the city website, under Building Department.

## Note: Currently these are not available. Need to consider what additional information can be provided here which would be helpful to applicants without duplicating material already found in § 118-4.

### 5.15.1 General

- A. Demolition Permits for structures within an Architectural Review District, Historic District or on City Landmarks shall require prior review and approval of the Design Review Board, and shall follow the specific procedures set forth for those districts in this Article.
- B. Applications for Demolition Permits which propose demolishing 50% or more of the floor area of a structure which is 50 years or older shall require a 30-day comment period to determine if the structure has architectural or historic significance.
1. A copy of the application shall be sent to the Saratoga Springs Preservation Foundation for comment.
  2. The [City Planning Department / Design Review Board] shall determine whether the proposed structure has architectural or historic significance. "Significance" includes having particular important associations within the context of the architecture, history or culture of Saratoga Springs or region and may include listing as "contributing" on the State and National Registers of Historic Places.
  3. **Structures with no architectural or historic significance.** The Design Review Board may approve an application for demolition if it finds that the structure proposed to be demolished has no historic or architectural significance.
  4. **Structures with architectural or historic significance.** For the proposed demolition of a structure determined to have significance, the procedures shall be the same as those for demolition of significant structures within the Architectural Review

District, Article 5.4.7 B.

- C. The applicant shall provide a plan to ensure a minimum of 25% of construction and demolition debris generated from the demolition is diverted from disposal to landfill through recycling, reuse and diversion programs.

## 5.16 FLOODPLAIN DEVELOPMENT PERMIT

Floodplain Development Permits are administered by the City Floodplain Administrator. All permits shall be required and issued according to the provisions of City Code Chapter § 120. Permit applications can be found on the city website, under [INSERT]

## Note: The following text is relocated from existing code section 120, Article IV. Section 120 will need to be revised accordingly, with a reference to the permits covered in this section.

### 5.16.1 ~~Development Permit Required;~~ Fees General

- A. **Purpose.** A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in City Code Chapter § 120-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; and existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- B. All work requiring a Floodplain Development Permit shall comply with the design and construction standards for development within areas of special flood hazard as specified in Article 2.4.
- C. **Fees.** All applications for a floodplain development permit shall be accompanied by an application fee of \$50. In addition, the applicant shall be responsible for reimbursing the City of Saratoga Springs for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

### 5.16.2 Application for Permit

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or all, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in [City Code Chapter § 120-16C](#), Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in [City Code Chapter § 120-18](#), Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in [City Code Chapter § 120-6](#), when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special

flood hazard may result in physical damage to any other property.

- G. In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

## 5.17 BUILDING PERMIT

Building Permits are administered by the City Building Department. All Building Permits shall be required and issued according to the provisions of City Code Chapter § 118-4.

**## Note:** Need to consider what additional information can be provided here which would be helpful to applicants without duplicating material already found in § 118-4.

## 5.18 CERTIFICATE OF OCCUPANCY

Certificates of Occupancy are issued by the City Building Department. All Certificates of Occupancy shall be required and issued according to the specific provisions of City Code Chapter § 118-7.

## 5.19 OTHER PERMITS & APPROVALS

**## Note:** This Subsection Under Construction

## 5.20 PERFORMANCE GUARANTEES

**## Note:** The following has been relocated from Site Plan Review.

A letter of credit or ~~acceptable equivalent security~~ **cash escrow** shall be delivered to the City to guarantee that the applicant shall construct and complete ~~the any (or all)~~ required improvements as indicated on the approved final site plan. Cash escrows must be accompanied by an escrow agreement. The Planning Board may waive the requirement for a performance guarantee if the estimated cost of site improvements is less than \$10,000.

**A. Establishment of Performance Guarantee**

1. The performance guarantee shall cover the full estimated cost of required off-site improvements within the public right-of-way and 25% of the full estimated cost of required on-site improvements. ~~These improvements may include grading, curbs, sidewalks, utilities, street lighting, driveways, parking lots, plantings, signs, and the like.~~
2. Estimates of construction costs are to be submitted to the Planning Board by the applicant's New York State licensed professional engineer ~~/architect~~ or landscape architect. The City Engineer shall review and revise estimated costs in accordance with current construction standards and practices or as modified by the Planning Board.
3. The performance guarantee shall identify the City of Saratoga Springs as the beneficiary and will state that funds may be collected ~~at an institution/location within 40 miles of the Saratoga Springs municipal boundaries~~ chartered or within New York State upon receipt of a written demand from the City Attorney of the City of Saratoga Springs. Legal and administrative costs incurred by the City associated with the collection of a performance guarantee will be reimbursed to the City.
4. The performance guarantee shall be valid for no less than 12 months and shall expire at quarterly intervals ~~with the exception of March 31.~~ [ ## Note: Confirm edit] Upon completion of all required construction, the City shall cancel the performance guarantee by written notice to the applicant.

**B. Amendment and/or Extension to Performance**

**Guarantee.** An applicant may request to extend and/or amend the original performance guarantee. The City Engineer, in consultation with the Planning Board Chair~~person~~, in consultation with staff, may act upon the request administratively and report such action to the Board in a timely manner, or may refer the request to the Planning Board for its review. All applications for amendment or extension shall be accompanied by a fee as established by the City Council. Extended or amended applications along with supporting documentation are due no less than 30 days from expiration date. ## Note: Confirm language transcribed correctly.