

Chapter 47

ENVIRONMENTAL QUALITY REVIEW

[On May 4, 1977, the Town Board of the Town of Windsor adopted Local Law No. 1-1977, pursuant to Article 8 of the New York State Environmental Conservation Law, providing for environmental quality review of actions which may have a significant effect on the environment. A Copy of said Local Law No. 1-1977, including all amendments, is on file in the Office of the Town Clerk.]

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[HISTORY: Adopted by the Town Board of the Town of Windsor 5-4-77 as L.L. No. 1-1977,
[pursuant to Article 8 of the New York State Environmental Conservation Law]

ARTICLE I
Authority, Title, and Purpose

§ 47-101. Authority.

A local law of the Town of Windsor pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect upon the environment.

§ 47-102. Short Title.

This law shall be known and may be cited as the Town of Windsor Environmental Quality Review Law.

§ 47-103. Purpose and Intent.

The purpose of the Town of Windsor Environmental Quality Review Law is to incorporate the consideration of environmental factors into the planning and decision making processes of the Town of Windsor. In adopting the Town of Windsor Environmental Quality Review Law, it is the intent of the Town of Windsor that all agencies operating within the stewards of air, water, land, and living resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

It is the intent of this law that the protection and enhancement of the environment, human, and community resources should be given appropriate weight, with social and economic considerations in public policy, and that those factors be considered together in reaching decisions on proposed activities. It is the intention of the Town of Windsor that through implementation of this law, a suitable balance of social, economic, and environmental factors be incorporated into the decision making processes of the Town of Windsor. It is not the intention of the Town of Windsor

Quality Review Law that environmental factors be the sole consideration in decision making.

ARTICLE II
Definitions

§ 47-201. Definitions.

As used in this law, unless the context otherwise requires, certain terms and words are herein defined as follows:

(1) **ACTION** - Any activity of an agency, except an exempt action as defined in Article III of this Law, including, without limitation.

(a) Physical activities such as construction, or other activities which change the use or appearance of any natural resource or a structure.

(b) Funding activities such as approving, approval, or disapproval of contracts, grants, subsidies, loans, tax abatements or exemptions, or other forms or direct and indirect financial assistance.

(c) Licensing activities such as the proposing, approval, or disapproval of a lease, permit, license, certificate, or other entitlement for use or permission to act.

(d) Planning activities such as site selection for other activities and the proposing, approval, or disapproval of a master or long range plans, zoning or other land use maps, ordinances or regulations, development plans or other plans designed to provide a program for future activities, and

(e) Policy making activities such as the making, modification, or establishment of rules, regulations, procedures, policies, and guidelines.

(2) **APPLICANT** - Any person making an application or other request for action by the Town of Windsor.

(3) **AGENCY** - Any state department, agency, board, public benefit corporation, public authority commission or any local agency including any village, town, city, county, board, district, commission, governing body, and other political subdivision of the state.

(4) **ENVIRONMENT** - The physical condition which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of

historic or aesthetic significance, existing patterns of population
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concentration, distribution, or growth, and existing community or neighborhood character.

(5) **ENVIRONMENTAL IMPACT REPORT** - A document prepared by an applicant to assist the municipality in its preparation of an Environmental Impact Statement. The contents of the report shall be prescribed by the Town of Windsor although it may include additional information.

(6) **ENVIRONMENTAL IMPACT STATEMENT** - A written document prepared in accordance with Article VI and Article VIII of this Law. An environmental impact statement may either be a draft or be final.

(7) **ENVIRONMENTAL SIGNIFICANCE STATEMENT** - A written description and analysis of the environmental impact and effect of a proposed action which addresses in detail the considerations listed in § 401 of this Law.

(8) **EXEMPT ACTION** - Any action for which an environmental review is not required in accordance with Article III of this Law.

(9) **MINISTERIAL ACTION** - Any action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action although the law may require in some degree a construction of its language or intent including all acts listed in Appendix A of this Law.

(10) **MUNICIPALITY** - The Town of Windsor, Broome County, New York.

(11) **PERMIT** - A license, lease, certificate, grant or permission or other entitlement for use or permission to act given by the Town of Windsor.

(12) **PERSON** - Any agency, individual, corporation, governmental entity, partnership, association, trustee, or other legal entity.

(13) **PLANNING BOARD** - The Town of Windsor Planning Board.

(14) **SEQR** - The State Environmental Quality Review Act constituting Article VIII of the Environmental Conservation Law and any amendments thereto.

(15) **TOWN** - The Town of Windsor, Broome County, New York.

(16) **TYPE I ACTION** - The actions or classes of actions that are likely to require preparation of environmental impact statements because they in almost every instance have a significant effect

upon the environment, including all those actions or classes of actions listed

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in Article XI of this Law.

(17) **TYPE II ACTION** - The actions or classes of actions which have been determined not to have a significant effect upon the environment and which do not require environmental impact statements under the Law, including all those actions or classes of actions listed in Article XI of this Law.

(18) **TYPICAL ASSOCIATED ENVIRONMENTAL EFFECTS** - The effects upon the environment which are commonly the result of an activity.

ARTICLE III Exempt Actions

§ 47-301. Actions Not Requiring Environmental Review.

The following actions are exempt from the Town Environmental Quality Review provided that all requirements contained herein have met with compliance.

§ 47-301.1 Actions Involving Federal Participation.

Where there has duly been prepared under the National Environmental Policy Act of 1969 both a draft environmental impact statement and a final environmental impact statement for an action under consideration, the Town shall have no obligation to prepare an environmental impact statement or make findings under this Law with respect to the action so long as the environmental impact statements either contain or are supplemented by the items concerning growth inducing aspects and energy use and conversation as described in § 602.3 (g) and (h) of this Law.

§ 47-301.2 Exempt Actions.

The following actions are exempt from the Town of Windsor Environmental Quality Review Law pursuant to § 617.13 of New York Code of Rules and Regulations (NYCRR).

- (A) Enforcement or criminal proceedings or exercise of prosecutorial discretion in determining whether or not to institute such proceedings.
- (B) Ministerial Actions.
- (C) Maintenance or repair involving no substantial changes in existing structure or facility.

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- (D) Actions requiring a certificate of environmental compatibility and public need under Article VII and VIII of the New York State Public Service Law and consideration, grant, or denial of any such certificate.
- (E) Actions undertaken or approved prior to June 1, 1977 for local agencies and September 1, 1977 for applicants. An action shall be deemed to be undertaken or approved prior to the respective above date if, in the case of construction activities, a contract for substantial construction activities has been entered into or if a continuous program of on-site construction or modification has been engaged in.
- (F) Actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property, or natural resources>
- (G) Actions of the Legislature of the State of New York or of any court of law.

§ 47-301.3 Type II Actions.

Type II actions as listed in Article XI are exempt from this Law.

**ARTICLE IV
Environmental Significance**

§ 47-401. Determination of Environmental Significance.

If an action is not exempt as defined in § 301 of this Law, determination will be made by the Town of Windsor Planning Board as to whether the action may have a significant effect upon the environment.

§ 47-401.1 Actions Likely to Have a Significant Effect Upon the Environment.

The following actions in addition to those actions listed as Type I in Article XI are likely to have a significant effect upon the environment.

- (A) A substantial adverse change to ambient air quality or water quality, or noise levels, or in solid waste production, or drainage, or erosion, or flooding.
- (B) The removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts upon critical habitat areas, or the substantial affecting of a rare or endangered species of

animal or plant or the habitat of such species.

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- (C) The encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action.
- (D) The creation of a material conflict with the community's existing goals or plans as officially approved or adopted by the Windsor Town Board.
- (E) The impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character.
- (F) A major change in the use of either the quantity or type of energy.
- (G) The creation of a hazard to human health or safety to any individual or group.
- (H) The creation of a material demand for other actions which would result in one of the above consequences.
- (I) A substantial change in the use, or intensity of use of land or other natural resources or in their capacity to support existing uses except where such an action has been included in broad program statements, master or area-wide statements, or statements for comprehensive plans for which environmental impact statements have been prepared. Agencies preparing such a statement shall develop procedures for amending or supplementing such statements to reflect impacts which are not addressed or adequately analyzed in such a statement as initially prepared. Such procedures shall include provisions for informing the public and other agencies of the preparation of such amendments or supplements and for allowing comment thereon before incorporation of such amendments or supplements in said statement. Actions undertaken or approved in conformity with this Law shall require no further review under this Law.
- (J) Changes in two or more elements of the environment, no one of which is substantial, but when taken together result in a material change in the environment.
- (K) Where there has duly been prepared under the National Environmental Policy Act of 1969 a negative declaration or other written threshold determination that the action will not require a federal impact statement, the Planning Board shall determine whether or not the action may have a significant effect upon the environment pursuant to the Town of Windsor Environmental Quality Review Law.

§ 47-401.2 Contemporaneous or Subsequent Actions.

For the purpose of determining whether an action will cause one of the consequences included in § 401.1 of this Law, the action shall be deemed to include other contemporaneous or subsequent

actions specified as follows.

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- (A) Contemporaneous or subsequent actions which are included in any long-range comprehensive integrated plan of which the action under consideration is a part.
- (B) Contemporaneous or subsequent actions which are likely to be taken as a result of the action under consideration.
- (C) Contemporaneous or subsequent actions which are dependent upon the action under consideration.

§ 47-401.3 Significance of Consequence.

The significance of a likely consequence as enumerated in § 401.1 (i.e. whether it is material substantial, large, important, etc.) should be assessed in connection with its setting (i.e. urban or rural), its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope, and its magnitude.

§ 47-402. Filing Procedures for Applicants for Determining Environmental Significance.

For the purpose of assisting the Planning Board in the determination of whether an action may or will not have a significant effect upon the environment, applicants for permits or other approvals shall file a written statement with the Planning Board setting forth.

- (A) The name of the applicant.
- (B) The location of the real property affected, if any.
- (C) A Description of the nature of the proposed action, and
- (D) The effect it may have upon the environment.¹

§ 47-402.1 Form.

The statement provided herein shall be upon a form titled Application for Determining Environmental Significance prescribed by resolution by the Planning Board and shall contain relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches, and maps, if any, together with any other relevant explanatory material required by the Planning Board.

¹Such statement shall be filed simultaneously with the application for action.

§ 47-403. Processing of Environmental Statement.

Upon receipt of a complete application the Planning Board shall cause notice thereof to be posted on the signboard, if any, of the Town of Windsor maintained by the Town Clerk and may also cause such notice to be published in the official newspaper of the Town. The notice shall describe the nature of the proposed action and state that written views thereon of any person shall be received by the Planning Board no later than a date specified in such notice.

§ 47-403.1 Written Determination on Action.

The Planning Board shall render a written determination on such application within 15 days following receipt of a complete application and statement, provided however, that such period may be extended by mutual agreement of the applicant and the Planning Board. The determination shall state whether such proposed action may or will not have a significant effect upon the environment. The Planning Board may hold informal meetings with the applicant and may consult with any other person for the purpose of making a determination on the application.

§ 47-403.2 Time Limitations.

The time limitations provided in this Law shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance, or regulation of the Town.

§ 47-404. Procedures for Determining Environmental Significance of Actions Proposed By the Town.

Actions proposed by the Town shall be assessed to determine whether or not the action may or will have a significant effect upon the environment.

§ 47-404.1 Statement of Environmental Significance.

The statement provided herein shall be upon a form as provided in §402.1 of this Law.

§ 47-404.2 Processing of Statement.

The statement of Environmental Significance shall be processed in the manner prescribed by §403 of this Law.

§ 47-405. Notification of Determination of Environmental Significance.

The Planning Board upon determining whether an action proposed either by the Town or an

immediately file such a determination as follows.

- (A) One copy with the appropriate regional office of the New York State Department of Environmental Conservation.
- (B) One copy with the Commissioner of the New York State Department of Environmental Conservation.
- (C) One copy with the office of the municipal clerk of the Town or whose jurisdiction most closely corresponds with the Town.

§ 47-406. Results of Determination of Environmental Significance.

If it is determined by the Planning Board that the action will not have a significant effect upon the environment, the proposed action may be processed without further regard to this local Law.

If the municipality determines that the proposed action may have a significant effect upon the environment, the proposed action shall be reviewed and processed in accordance with the provisions of Article V and Article VI of this Law.

ARTICLE V
Lead Agency

§ 47-501. Designation of Lead Agency.

Upon receipt of a complete application for an action which the Planning Board determines may have a significant effect upon the environment pursuant to Article IV of this Law, the Planning Board shall immediately notify all other agencies which may be involved in the proposed action. All involved agencies shall to the fullest extent possible, coordinate their environmental reviews through a lead agency to the end that the requirements are met by a single Draft Environmental Impact Statement, a single Final Environmental Impact Statement, and if conducted and practicable, a single hearing process. In order to expedite this coordination, the Planning Board shall require applicants to specify in their applications which other agencies to the best of the applicant's knowledge will have jurisdiction by law over proposed actions. The designation of the lead agency shall be made within thirty (30) calendar days following the filing of a complete application.

§ 47-502. Determination of Lead Agency.

If a question arises between (or among) two or more agencies as to which agency is the lead agency in an action, the agencies shall resolve the question themselves and designate a lead agency in writing on the basis of the following.

- (A) The agency first to act upon the proposed action.
- (B) A determination of which agency has the greatest responsibility for supervising or approving the action as a whole.
- (C) A determination of which agency has more general governmental powers as compared to single or limited powers or purposes
- (D) A determination of which agency has the greatest capability for providing the most thorough environmental assessment of the action, and
- (E) A determination of whether the anticipated impacts of the action being considered are primarily of statewide, regional, or local concern.

§ 47-502.1 Resolution of Lead Agency Determination.

If such agencies are unable to resolve the question within the prescribed thirty(30) calendar day period, they shall submit the question in written form to the Commissioner of the New York State Department of Environmental Conservation who shall, within five(5) business days, on the basis of the criteria specified in § 502 of this Law designate the lead agency.

§ 47-503. Notification to Applicant.

Once the lead agency has been identified, the lead agency shall immediately notify the applicant in writing that it is the lead agency and request the applicant to prepare a Draft Environmental Impact Statement.

§ 47-504. Responsibilities of Other Agencies.

The other agencies involved in the action shall have no further obligations under this section with respect to the action being considered except.

- (A) To provide their reviews where appropriate and to the extent practical, appropriate technical analysis and support.
- (B) To make the finding required by Article IX of this Law, and not to approve, commence, or engage in such action until the procedures set forth in Article IX if this law have been completed.

§ 47-505. Scope of Authority

Nothing in this Law shall prevent the Planning Board, an agency, or an applicant from;

(1) Conducting a contemporaneous environmental, economic, feasibility, and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not otherwise commit the Planning Board or the agency to commence or engage in such action or

(2) Granting approval of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action unless and until all requirements of this Law have been fulfilled.

ARTICLE VI

Draft Environmental Impact Statements

§ 47-601. Necessity of Draft Environmental Impact Statements.

Following a determination that an action may have a significant effect upon the environment the Planning Board shall.

(A) In the case of an action not involving an applicant, prepare a draft environmental impact statement in accordance with the procedures outlined in this section, or

(B) In the case of an action involving an applicant, immediately notify the applicant to prepare an environmental impact report to assist the Planning Board in carrying out its responsibility under this Law or may request the applicant to prepare a draft environmental impact statement except where the action involves more than one agency, in which case, the procedures outlined in § 501 and § 503 of this Law shall be followed. If the applicant refused to submit a draft environmental impact statement or the environmental impact report, the Planning Board shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion notify the applicant that the processing will cease and no approval will be issued.

§ 47-601.1 Cover Sheet of the Draft Environmental Impact Statement.

All Draft Environmental Impact Statements shall be preceded by a cover sheet stating.

- (A) That it is a Draft Environmental Impact Statement.
- (B) The name or other descriptive title of the action.
- (C) The location (county, municipality) of the action.
- (D) The name and address (of the municipality or agency) which required its preparation and the name and telephone number of (a person at the municipality or agency) to be contacted for further information.
- (E) Identification of individuals or organizations which prepared any portion of the statement, and
- (F) The date of its completion.

§ 47-601.2 Table of Contents.

If the Draft Environmental Impact Statement exceeds ten pages in length, it shall have a table of contents following the cover sheet.

§ 47-601.3 Contents of the Body of the Draft Environmental Impact Statement.

The body of all Draft Environmental Impact Statements shall contain at least the following.

- (A) A description of the proposed action in its environmental setting.
- (B) A statement of the environmental impact of the proposed action, including its short and long-term effects, and typical associated environmental effects.
- (C) An identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented.
- (D) A discussion of alternatives including the null alternative to the proposed action and the comparable impacts and effects of such alternatives.
- (E) An identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.
- (F) A description of mitigation measures proposed to minimize the adverse environmental impacts.
- (G) A description of any growth-inducing aspects of the proposed action.

- (H) A discussion of the effects of the proposed action on the use and conservation of energy.
- (I) A list of any underlying studies, reports, and other information obtained and considered in preparing the statement, and
- (J) Any other requirements which the Planning Board deems necessary for adequate assessment of environmental impact.

§ 47-601.4 Incorporation of Other Documents by Reference.

A Draft Environmental Impact Statement may incorporate by reference all or portions of other documents which contain information relevant to the statement. The reference document shall be made available to the public in the office of the Town Clerk. When a statement uses incorporation by reference, the referenced document shall be briefly described and its date of preparation provided.

§ 47-602. Completion of the Draft Environmental Impact Statement.

Upon completion of a Draft Environmental Impact Statement prepared by or at the request of the Planning Board, the Planning Board shall issue a notice of completion containing the following.

- (A) A brief description of the action covered by the statement and the location of its potential impacts and effects.
- (B) A statement indicating where and how copies of the statement can be reviewed or obtained, and
- (C) A statement that comments pertaining to the Draft Environmental Impact Statement are requested and will be considered by the Planning Board at the Windsor Town Hall, c/o the Town Clerk for a period not less than thirty(30) days from the first filing and circulation of the notice of completion.

§ 47-602.1 Filing of the Notice of Completion.

The notice of completion shall be sent to all other agencies involved in the action, persons who have requested it, the editor of the State Bulletin, the State Clearinghouse, and the Southern Tier East Regional Planning Development Board designated under the Federal Office of Management and Budget Circular A-95. The Planning Board shall maintain a file open to public inspection of notices of completion and Draft Environmental Impact Statements it has requested an applicant to prepare, has or caused to have been prepared.

§ 47-602.2 Filing of Notice of Completion and Draft Environmental Impact Statements for Public Information Purposes.

Impact Statements and notice of completion shall immediately be filed as follows.

- (A) One copy with the municipal clerk whose jurisdiction most closely coincides with that of the lead agency.
- (B) One copy with the Broome County office of the New York State Department of Environmental Conservation, and
- (C) One copy with the Commissioner of the New York State Department of Environmental Conservation.

**ARTICLE VIII
Public Hearing Process**

§ 47-701. Determination of Necessity of Public Hearing.

Upon completion of the Draft Environmental Impact Statement prepared by or at the request of the Planning Board, the Planning Board shall determine whether or not to conduct a public hearing concerning the proposed action. In determining whether or not to hold a hearing, the Planning Board shall consider the degree of interest shown by other persons in the action and the extent to which a public hearing can aid in the decision making process of the Planning Board by providing a forum for, or an efficient mechanism for the collection of public comment.

§ 47-702. Notification of Public Hearing.

If a public hearing is to be held, notice thereof may be contained in the notice of completion or, if not so contained, shall be given in the same manner in which the notice of completion is sent, filed, and circulated pursuant to § 603.1 of this Law. In either case, the notice of hearing shall also be published at least ten(10) calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impacts and effects of the action, and shall contain a statement that comments pertaining to the Draft Environmental Impact Statement will be received and considered by the Planning Board for not less than ten(10) calendar days following the public hearing.

§ 47-703. Time Frame for Conduct of Public Hearing.

The hearing shall commence no less than fifteen(15) calendar days or more than sixty(60) calendar

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days after the filing of the Draft Environmental Impact Statement pursuant to § 602.2 of this Law, except as the Planning Board may otherwise provide where it determines that additional time is necessary for public or other agency review of the Draft Environmental Impact Statement, or where a different hearing date is required as appropriate under applicable law. When the SEQOR hearing is to be held, it shall be incorporated into existing hearing procedures of the Planning Board.

ARTICLE VIII

Final Environmental Impact Statement

§ 47-801. Determination of Necessity of Final Environmental Impact Statement.

Except as otherwise provided herein, the Planning Board shall prepare or cause to be prepared a Final Environmental Impact Statement within forty-five(45) calendar days after the close of any hearing or within sixty(60) days after the filing of the Draft Environmental Impact Statement whichever last occurs. If the proposed action has been withdrawn or if, on the basis of the Draft Environmental Impact Statement or hearing, the Planning Board has determined that the action will not have a significant effect upon the environment, no Final Environmental Impact Statement need be prepared.

§ 47-801.1 Extension for Preparation of Final Environmental Impact Statement.

The Planning Board may extend the last date for preparation of the Final Environmental Impact Statement.

- (A) Where it determines that additional time is necessary to complete the statement adequately,
or
- (B) Where problems with the proposed action requiring material reconsideration or modification have been identified, or
- (C) For other good cause.

§ 47-802. Contents of Final Environmental Impact Statement.

The final Environmental Impact Statement shall be preceded by a cover sheet as provided in § 601.1 except that it shall state that it is a Final Environmental Impact Statement. The Final Environmental Impact Statement shall reflect a revision and updating of the matters required as provided in § 601.3 in the body of the statement in light of further review by the Planning Board, comments received, and the record of any hearing. Copies or a summary of the substantive comments received in response to the Draft Environmental Impact Statement and the response of the Planning Board to such comments shall be included in the Final Environmental Impact Statement.

§ 47-803. **WINDSOR TOWN CODE** **§ 47-903**

§ 47-803. Filing of Final Environmental Impact Statement.

Copies of the Final Environmental Impact Statement shall be filed and made available for review in the same manner as the Draft Environmental Impact Statement. A notice of completion of the Final Environmental Impact Statement shall be sent to all persons and agencies to whom the notice of completion of the Draft Environmental Impact Statement was sent. The Planning Board shall maintain a file open to public inspection of notices of completion and Draft Environmental Impact Statements and Final Environmental Impact Statements it has requested or prepared.

**ARTICLE IX
Decision Making**

§ 47-901. Timing of Decision Making.

No decision to carry out or approve an action which may have a significant effect upon the environment shall be made until after the filing and consideration of a Final Environmental Impact Statement. The Planning Board's decision whether or not to approve an action which has been the subject of an Environmental Impact Statement shall be made within thirty(30) calendar days of the filing of a Final Environmental Impact Statement.

§ 47-902. Findings.

When the Planning Board decides to carry out or approve an action which may have a significant effect upon the environment, it shall make the following findings in a written statement.

- (A) Consistent with social, economic, and other essential considerations of state policy, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects disclosed in the relevant environmental impact statement, and
- (B) Consistent with social, economic, and other essential considerations of state policy, all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

§ 47-903. Filing of Determination.

For public information purposes, a copy of the determination shall be filed immediately in the same manner as the Draft Environmental Impact Statement. The Planning Board shall maintain a file open to public inspection of all notices of determination prepared by it.

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ARTICLE X
Administrative Procedures

§ 47-1001. Fees.

Where an action subject to this Law involves an applicant, and the Planning Board has been responsible for the preparation of environmental impact statements, the Planning Board may charge a fee not to exceed one half of one percent of the action's total cost to the applicant in order to recover the costs of preparing and/or reviewing environmental impact statements.

§ 47-1002. Amendments.

The Town of Windsor may from time to time after public hearing, modify the procedures of this law, broaden the scope of actions for which environmental review is required, and establish further environmental review criteria. Such amendments shall be no less protective of environmental values, public participation, and agency and judicial review than the procedures set forth in §617 of New York State Environmental Conservation Law §8-0113.

§ 47-1003. Consistency with New York State Law.

Upon the written request of any person, the commissioner of New York State Department of Environmental Conservation shall review and determine whether any action contained in the Town's own list or classification system is consistent with the criteria of § 617.9 and the actions in § 617.12 of Part 617 State Environmental Quality Review. The commissioner shall give written notification of the determination to such persons and the Town within thirty(30) days of receipt of a request.

§ 47-1004. Procedures for Questioning Final Determination.

Within ten(10) calendar days after the filing of a final decision of the Planning Board of the environmental impact of a proposed action, the Planning Board will accept a written statement of questions of specific nature pertaining to such decision by any person(s) or agency(s).

§ 47-1004.1 Establishment of Meeting to Discuss Questions.

At the mutual consent of the Planning Board and the person(s) or agency(s) which has caused the statement of questions to be prepared to the Planning Board, the date, time, and location of a meeting of both parties shall be established. Such meeting shall take place not later than thirty(30) calendar days after the receipt of the written statement by the Planning Board. If more than one written statement of questions is received by the Planning Board, the Planning Board may, at its discretion, hold one meeting to address all statements of questions.

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§ 47-1004.2 Notification of Receipt of Statement of Questions.

Within ten(10) calendar days of receipt of a written statement of questions, the Planning Board shall cause notice of receipt of such questions to be published in a newspaper of general circulation within the Town. Such notice shall state that the questions may be reviewed at the office of the Town Clerk, and the date, time, and location of the meeting between the municipality and the person(s) or agency(s) which has caused the statement of questions to be prepared, and that any person(s) or agency(s) that wish to comment upon the statement of questions may do so at such meeting. The cost of such notice shall be paid by the person(s) or agency(s) that caused the statement of questions to be prepared.

§ 47-1004.3 Purpose of Meeting.

The purpose of the meeting between the Planning Board and the person(s) or agency(s) that caused the statement of questions to be prepared shall be to discuss the

- (A) Environmental ramifications, and
- (B) Social and economic ramifications, and
- (C) Other mitigating circumstances,

which led to the final decision made by the Planning Board on the action. Only those questions which appear upon the written statement of questions shall be discussed at such meeting.

§ 47-1004.4 Determination of Final Decision.

Based upon the discussion between the Planning Board and the Person(s) or agency(s) that caused the statement of questions to be prepared and with any other person(s) or agency(s) with which the Planning Board may wish to consult, the Planning Board may modify its final decision. No further consideration of questions pertaining to any decision of the Planning Board upon the proposed action as provided in this section will be made. Notice of the final decision shall be made in the same manner as provided in §602.1 and §602.2 and §902 of this law. The Planning Board shall maintain a file open to public inspection of all notices of determination prepared by it.

§ 47-1005. Effective Date.

This law shall take effect on June 1, 1977 for any actions undertaken by the Town. This law shall Take effect on September 1, 1977 for any action proposed by an applicant which requires a permit or other approval from the municipality.

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ARTICLE XI

Type I and Type II Actions

§ 47-1101. Type I Actions.

Type I Actions or classes of actions will require an environmental assessment and are likely to m but will not necessarily, require preparation of environmental impact statements because they will in almost every instance have a significant effect on the environment. The following are Type I Actions or classes of actions.

(A) Construction of new or expansion by more than 50% of existing size, square footage or usage of existing

1. Airports
2. Public Institutions such as hospitals, schools, and institutions of higher learning and correction facilities, major office centers
3. Road or highway sections (including bridges) which require an indirect source permit under NYCRR Part 203 (see attached copy of 6 NYCRR Part 203)
4. Parking facilities or other facilities with an associated parking area for 250 or more cars only if such facility would require an indirect source permit under 6 NYCRR Part 203 (see attached copy of 6 NYCRR Part 203)
5. Dams with a downstream hazard of "C" classification under Environmental Conservation Law (ECL) Section 15-0503 (see attached copy of Section 15-0503)
6. Stationary combustion installations operating at a total heating input exceeding 1,000 million BTU's per hour
7. Chemical pulp mills
8. Portland cement plants
9. Iron and steel plants
10. Primary aluminum ore reduction plants
11. Incinerators operating at a refuse charging rate exceeding 250 tons of refuse per 24-hour day

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12. Sulfuric acid plants

13. Petroleum refineries
14. Bi-product coke manufacturing plant
15. Mobil home, trailer or recreational vehicle parks
16. Junk or automobile salvage yards
17. Lime plants
18. Storage facilities designed for ar capable of storing one million or more gallons of liquid natural gas, liquid petroleum gas, or other liquid fuels
19. Sulfur recovery plants
20. Fuel conversion plants
21. Process, exhaust, and/or ventilation systems emitting air contaminants assigned an environmental rating of "A" under 6 NYCRR 212 and whose total emission rate of such "A" contaminants exceeds 1 pound per hour. (see attached copy of 6 NYCRR 212)
22. Process, exhaust, and/or ventilation systems from which the total emission rate of all air contaminants exceeds 50 tons per day
23. A sanitary landfill for an excess of 100,000 cubic yards per year of waste fill
- 24 Any facility, development, or project which is to be directly located in one of the following critical areas:
 - (i) Tidal wetlands as defined in Article 25 of the ECL
 - (ii) Freshwater wetlands as defined in Article 24 of the ECL (see attached copy of Article 24 of the ECL)
 - (iii) Floodplains as defined in Article 36 of the ECL (see attached copy of Article 36 of the ECL)
 - (iv) Wild, scenic, and recreational river areas designated in Title 27 of Article 15 of the

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 ECL (see attached copy of Title 27 of Article 15 of the ECL)

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25. Any facility, development, or project having an adverse impact on any historic or prehistoric building, structure, or site listed on the National Register of Historic Places or in the statewide inventory of Historical and Cultural Resources.(this information can be obtained from the New York State Parks and Recreation, Division for Historic Preservation)
26. Any development, project, or permanent facility of a non-agricultural use in an agricultural district which requires a permit except those listed as Type II Actions.
27. Public or private cemeteries
28. Sanitary landfill operations
29. Any facility, development, or project which would generate more than 5,000 vehicle trips per any hour or more than 25,000 vehicle trips per any eight-hour period
30. Any facility, development, or project which would use ground or surface water in excess of 2,000,000 gallons in any day
31. Any industrial facility, which has a yearly average discharge flow, based on days of discharge, of greater than 0.5 MGD (million gallons per day).
32. Any publicly or privately owned sewage treatment works which has an average daily design flow of more than 0.5 MGD
33. A residential development outside any Standard Metropolitan Statistical Area (SMSA) as defined by the U.S. Census Bureau that includes 50 or more units in an un-sewered area or 250 or more units in a sewerred area, or within an SMSA that includes 50 or more units in an un-sewered area or 2,000 or more units in a sewerred area
34. (a) Lakes or other bodies of water with a water surface in excess of 200 acres
 - (b) Any funding, licensing, or planning activities in respect of any of the types of construction listed in a) above.
 - (c) Application of pesticides or herbicides over more than 1500 contiguous acres.
 - (d) Clear-cutting of 640 or more contiguous acres of forest cover or vegetation other than crops.

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- (e) The proposed adoption of comprehensive land use plans, zoning ordinances, building codes, comprehensive solid waste plans, state and regional transportation

plans, water resources basin plans, comprehensive water quality studies, area-wide waste water treatment plans, state environmental plans, local flood plain control plans, and the like.

- (f) Commercial burial of radioactive materials requiring a permit under 6 NYCRR Part 380. (see attached copy of 6 NYCRR Part 380)
- (g) Any action which will result in excessive or unusual noise or vibration taking into consideration the volume, intensity, pitch, time duration and the appropriate land uses for both the source and the recipient of such noise or vibration.
- (h) Acquisition or sale by a public agency of more than 250 contiguous acres of land.

§ 47-1102. Type II Actions.

Type II actions or classes of actions have been determined not to have a significant effect on the environment and do not require environmental assessment impact statements under this law.

- (a) Construction or alteration of a single family or two-family residence and appurtenant uses or structures not in conjunction with the construction or alteration of two or more such residences and not in one of the critical areas described for Type I Actions.
- (b) The extension of utility facilities to serve new or altered single or two family residential structures or to render service in approved subdivision.
- (c) Construction or alteration of a store, office, or restaurant designed for an occupant load of 20 persons or less, if not in conjunction with the construction or alteration of two or more stores, offices or restaurants and if not in one of the critical areas described in Type I Actions, and the construction of utility facilities to serve such establishments.
- (d) Actions involving individual setback and lot line variances and the like.
- (e) Agricultural farm management practices including construction, maintenance and repairs of farm building and structures, and land use changes consistent with generally accepted principles of farming.
- (f) Operation, repair, maintenance or minor alteration (not exceeding 50% of original size of building) of existing structures, land uses, and equipment.
- (g) Restoration or reconstruction of a structure in whole or in part being increased or

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expanded by less than 50% of its existing size, square footage, or usage.

(h) Reconditioning, preservation, and repaving of existing highways not involving the addition of new travel lanes. These projects are essentially maintenance-type work with improvement to correct substandard features. They include minor pavement and shoulder widening, drainage improvements, resurfacing and repair of deteriorated roadway and structural elements. Minor amounts of additional right-of-way may be required.

(i) Minor reconstruction of an existing highway, including such work as: shoulder widening, adding auxiliary lanes for local utility such as climbing, weaving, turning, and speed change, the addition of not more than one travel lane, and the correction of substandard curves, grades, and sight distances. These projects shall qualify as Type II only if the project requires.

(1) Less than three additional acres of right-of-way per mile, and

(2) No significant effect on unusual or unique areas including Federal or State registered historic sites, wetlands, park lands, and flood plains.

(j) Spot correction of deteriorated or substandard elements of existing highway. These projects include minor work to accomplish a specific objective such as rehabilitation, demolition, or replacement of deteriorated bridges or culverts, correction of a substandard feature. Minor amounts of additional right-of-way may be required.

(k) Installation of new or upgrading of existing roadside appurtenances. These projects are designed to maintain the operational standards of existing highway and include installation of impact attenuators, highway lighting, guide rail, signs, delineators, intersection signals, noise barriers, traffic control devices, traffic surveillance systems, pavement markings, at-grade railroad protective devices, fencing, telecommunications systems, and landscaping.

(l) The expansion of an existing highway maintenance site which will not increase its size or usage by more than 50%.

(m) Snow and ice control including plowing, the application of salt, sand, cinders, gravel, dirt, or similar substance(s), or any combination thereof to paved or other road surfaces.

(n) Street openings for the purpose of repair or maintenance of existing utility facilities.

(o) All waterway maintenance activities including, but not limited to:

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(1) Repair and replacement of riprap, concrete, and bank protection,

- (2) Shoreline maintenance.
- (3) Excavating silt refill to restore channels to design dimensions.
- (p) Mapping of existing roads, streets, highways, uses, ownership patterns and the like.
 - (1) Regulatory activities not involving changed construction or changed land use relating to one individual, business, institution, or facilities, such as inspections, testing, operating certification, or licensing and the like.
- (q) Sales or surplus government property other than land, radioactive material, pesticides, herbicides, or other hazardous materials.
- (r) Collective bargaining activities.
- (s) Operating, expense, or executive budget planning, preparation, and adoption not invoking new programs or major reordering of priorities.
- (t) Investments by or on behalf of agencies or pension or retirement systems.
- (u) Actions which are immediately necessary for the protection or preservation of life, health, property, or natural resources.
- (v) Routine administration and management of agency functions not including new programs or major reordering of priorities.
- (w) Routine license and permit renewals where there is no significant change in preexisting conditions.
- (x) Routine activities of educational institutions which do not include capital construction.

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**ARTICLE XII
Separability and Repeal**

§ 47-1201. Separability Clause.

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

§ 47-1202. Repealing Provisions.

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.