

**INCORPORATED VILLAGE OF OLD WESTBURY
BOARD OF TRUSTEES**

LOCAL LAW NO. 7 OF 2016

**AMENDING CHAPTER 174, "SITE PLAN REVIEW", OF
THE CODE OF THE VILLAGE OF OLD WESTBURY TO
EXPAND THE SCOPE AND AUTHORITY OF THE
PLANNING BOARD TO REVIEW MATTERS OF
AESTHETIC INTEREST AND VALUE AND
ARCHITECTURAL FEATURES AND DESIGN THAT
WERE PREVIOUSLY REVIEWED BY THE VILLAGE
ARCHITECTURAL REVIEW COMMITTEE; AND TO
PROVIDE THE PLANNING BOARD WITH ADDITIONAL
AUTHORITY TO ESTABLISH PROCEDURES FOR THE
REVIEW OF APPLICATIONS WITHIN ITS
JURISDICTION**

WHEREAS, New York State General Municipal Law Section 96-a provides that: "In addition to any power or authority of a municipal corporation to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing board or local legislative body of any county, city, town or village is empowered to provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art, and other objects having a special character or special historical or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both."; and

WHEREAS, Chapter 216, Article XVI of the Village Code, "Architectural Review Committee", provides for the review of certain building department permit applications by the Architectural Review Committee (the "ARC"); and

WHEREAS, the ARC considers applications pursuant standards as set forth in Section 216-155 as matters relating to aesthetic interest and value and architectural design features; and

WHEREAS, pursuant to Chapter 40 of the Village Code, "Planning Board" and Chapter 174 of the Village Code, "Site Plan Review" certain other applications for the development of real property must also be reviewed by the Village Planning Board (the "Planning Board"); and

WHEREAS, the Planning Board is authorized to act pursuant to the statutory framework set forth in New York State Village Law, Article 7, "Building Zones" and considers applications pursuant to the standards as set forth in Section 174-6 of the Village Code; and

WHEREAS, by Resolution dated October 19, 2015 and filed in the Office of the Village Clerk on October 20, 2015, and in accordance with Sections 7-700 and 4-412(1) of the New York State Village Law, the Board of Trustees created a Zoning Advisory Committee (the "Zoning Advisory Committee") to review the Village Code and to issue recommendations to the Board of Trustees with respect to proposed changes or amendments to the Village Code regarding zoning, land use development and to review application procedures for the development of real property; and

WHEREAS, by Resolution dated November 16, 2015 and filed in the Office of the Village Clerk on November 17, 2015, the Board of Trustees appointed the following seven

Village residents to serve on the Zoning Advisory Committee: Edward Novick as Chairman of the Committee and Edward Kalikow, Andrew Weinberg, Mike Khorrani, Sheryl Setzen, Robert Lemle and Jonathan Miller, as Members; and

WHEREAS, in or around April 2016, the Zoning Advisory Committee made recommendations to the Board of Trustees for changes and amendments to the Village Code, one of which was the consolidation of the ARC and Planning Board; and

WHEREAS, this Local Law and its companion Local Law repealing Chapter 216, Article XVI, "Architectural Review Committee", is intended to advance the goals of governmental efficiency and provide the Village residents with a streamlined review process by consolidating and combining the ARC and Planning Board into a singular board that will review both aesthetic and architectural considerations and general site plan review considerations pursuant to New York State General Municipal Law, New York State Village Law and associated provisions of the Village Code; and

WHEREAS, the Board of Trustees finds, in accordance with the recommendations of the Zoning Advisory Committee, that it is appropriate and in the best interest of the Village and the public health, safety and welfare, and consistent with the goals of appropriately regulating development of real property, to amend Chapter 174, "Site Plan Review", of the Village Code of the Incorporated Village of Old Westbury in order to allow the Planning to review aesthetic and architectural considerations previously reviewed by the ARC; and

WHEREAS, this Local Law was introduced by the Board of Trustees on July 18, 2016; and

WHEREAS, on August 1, 2016, the Nassau County Planning Commission issued a local determination letter deferring to the Board to take action as deemed appropriate; and

WHEREAS, by letter dated August 8, 2016, Cashin Spinelli & Freretti, LLC, the Village Planner, issued its recommendation classifying the Local Law as a Type II Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Board on August 15, 2016.

NOW, THEREFORE, BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Old Westbury as follows:

Section 1. Chapter 174, "Site Plan Review", of the Village Code of the Incorporated Village of Old Westbury shall be amended as follows:

§ 174-1. Title.

This chapter shall be known and cited as the "Village of Old Westbury Site Plan Review Law."

§ 174-2. Findings; legislative intent.

A. The Board of Trustees of the Incorporated Village of Old Westbury (hereinafter the "Board of Trustees") hereby finds that in order to ensure that future land use, development and construction activities within the Village of Old Westbury (hereinafter the "Village") will have a

harmonious relationship with the existing or permitted use of contiguous land and with surrounding neighborhoods, and to otherwise promote the health, safety, general welfare, comfort and convenience of the Village and its residents, site plans for new land use, development and construction activities proposed within the Village should be subject to Village Planning Board review.

B. It is, therefore, the intent of the Board of Trustees and the purpose of this chapter to establish a procedure for site plan review for new land use, development and construction activities proposed within the Village consistent with and pursuant to § 7-725-a of the Village Law of the State of New York and § 96-a of the General Municipal Law of the State of New York, and to authorize the Planning Board to review and provide it with appropriate standards in its review of all site plans for compliance with certain site plan elements, which include, where appropriate, those relating to, aesthetic interest and value, parking, means of access, traffic, screening, lighting, signs, landscaping, architectural features, location and dimension of buildings, adjacent land uses and physical features meant to protect adjacent buildings and land uses, as well as any additional site plan and design elements specified herein.

C. Additionally, consistent with and pursuant to § 7-725-a of the Village Law of the State of New York and § 96-a of the General Municipal Law of the State of New York, it is also the purpose of this Chapter to preserve and promote the character, appearances and aesthetics of the Village and to conserve the property values of the Village by providing procedures for the Planning Board, as part of site plan review, to conduct a review of items relating to aesthetic interest and value and architectural design features of the exterior of new buildings or enclosed structures, and of certain alterations and reconstruction of existing buildings or enclosed structures when such alteration or reconstruction exceeds 20% of the square footage of the building or enclosed structure or a change of more than 20% of the surface area of either the side or front exterior facade with respect to architectural style or a change of building materials or treatments and by so doing to:

(1) Encourage good qualities of exterior building design and good appearances and to relate such design and appearances to the sites and surroundings of structures.

(2) Preserve the prevailing aesthetic character of the neighborhood and countryside and to enhance the same by means of complementary structures.

(3) Permit originality and resourcefulness in building design and appearances which are appropriate to the sites and surroundings.

(4) Promote and encourage good qualities of architectural design and utilization of land in the erection and construction of new structures and the exterior refurbishing, reconstruction or alteration of existing structures.

(5) Assure that the design and location of any proposed structure or the addition, alteration or reconstruction of any existing structure is in harmony with the existing topography of its site and/or the existing structure as well as the neighboring countryside and existing property.

(6) Discourage and prevent such design that would adversely affect or cause the diminution in value of neighboring property, whether improved or unimproved.

(7) Prevent such design and appearances as are unnecessarily offensive to visual sensibilities, which impair the use, enjoyment, value or desirability of neighboring properties and the health, safety and general welfare of the community at large.

D. The Board of Trustees hereby finds:

(1) That structures which are visually offensive or inappropriate by reason of poor exterior design, monotonous similarity or striking visual discord or dissimilarity in relation to their site or surroundings would mar the appearances of their areas and would adversely affect the desirability of the immediate area and neighboring areas.

(2) That such structures would discourage and prevent the most appropriate development and utilization of land throughout the Village.

(3) That such structures would impair the use, enjoyment and desirability and stability of both improved and unimproved property and are detrimental to the character of neighborhoods, produce degeneration of the values of real property, with attendant deterioration of conditions affecting the functioning, economic stability, prosperity, health, safety and morals of the inhabitants of the Village, and destroy a proper relationship between the taxable value of real property and the cost of municipal services provided therefor.

E. it is the purpose of this Chapter to prevent these and other harmful effects and thus to promote the health, safety, morals and general welfare of the community.

§ 174-3. Authority of Planning Board.

A. Pursuant to Village Law, § 7-725-a, the Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans submitted in accordance with the standards and procedures set forth in this chapter.

B. Upon approval of a site plan, the Planning Board may impose reasonable conditions and restrictions as are related to and incidental to the proposed site plan. Thereupon, such imposed conditions must be met before the issuance of permits by applicable enforcement agencies or officials of the Village.

§ 174-4. Activities requiring site plan review; approval required.

A. In situations in which the Planning Board has retained site plan approval with respect to development on residential lots and in other situations involving construction on a new foundation, other than on a new foundation replacing an existing foundation on the same footprint, the provisions of this chapter shall apply, and all proposed buildings and proposed structures on such lots shall require site plan approval in accordance with this chapter.

B. No building permit for a building or structure subject to site plan review shall be issued by the Building Department except upon authorization of and in conformity with a site plan approved by the Planning Board.

C. Prior to the issuance of a building permit for the construction of a new building or enclosed structure or for the alteration or reconstruction of an existing building or enclosed

structure when such alteration or reconstruction exceeds 20% of the square footage of the building, the applicant shall file with the Planning Board an application in accordance with this Chapter.

D. The Planning Board is authorized to establish a sub-committee of no less than three (3) members of the board to consider the following minor applications: (i) construction of a fence regardless of location or materials, including all modifications and replacements of an existing fence; (ii) a change of more than 20% of the surface area of either the side or front exterior facade with respect to architectural style or a change of building materials or treatments; (iii) the installation of a solar panel or panels, either freestanding or in any manner attached to any structure; and (iv) installation or construction of piers or gates not otherwise associated with the construction of a new building or enclosed structure or for the alteration or reconstruction of an existing building or enclosed structure when such alteration or reconstruction exceeds 20% of the square footage of the building. Such applications shall be on a form prescribed by the Board subject to procedures as adopted by the Planning Board from time to time.

§ 174-5. Application requirements.

A. Applications for site plan approval shall be submitted to the Village Clerk after appropriate review of a building permit application by the Building Department and at least 30 days prior to the Planning Board meeting at which the site plan is to be considered and, except as otherwise provided herein, shall include 12 copies of each of the following items, to be submitted in separate and complete sets:

(1) Application form for site plan review, in form and substance satisfactory to the Building Department.

(2) Site survey, showing all existing structures, prepared, signed and sealed by a licensed land surveyor.

(3) Site plan for the proposed land use, drawn at a scale of not less than one inch equals 20 feet, signed and sealed by a licensed architect or engineer, and which shall include the following information:

(a) A title block located in the lower right-hand corner of the site plan and shall include the name and address of the applicant and record owner of the property, the property's designation on the Nassau County Land and Tax Map and the title of the project. If the applicant or property owner is a corporation, the name and address of the president and secretary shall be submitted with the application.

(b) A date block of the site plan adjacent to the title block containing the date of preparation and dates of all revisions.

(c) A key map showing the location of the property with reference to surrounding areas and existing street intersections within 1,000 feet of the boundaries of the subject premises.

(d) A written and graphic scale, as well as a North arrow.

(e) Zoning district boundaries shall be shown on the site plan as they affect the parcel.

(f) Survey data showing boundaries of the property, required building and setback lines and lines of existing and proposed streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.

(g) Reference to any existing covenants, restrictions, easements or exceptions that are in effect or are intended to cover all or any of the property. A copy of such covenant, restriction, easement or exception shall be submitted with the application. If there are no known covenants, deed restrictions, easements or exceptions affecting the site, a notation to the effect shall be indicated on the site plan map.

(h) Location of existing structures on the site. The plan shall contain a notation indicating any structures that are to be removed.

(i) All distances, as measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with any other street.

(j) Location plans and elevations of all proposed structures.

(k) Location of all existing and proposed driveways, walkways and impervious surfaces located on the property.

(l) Location of all existing storm drainage structures, soil erosion and sediment control devices and utility facilities, including electric, water, telephone and cable television, which are located within the property lines.

(m) Existing and proposed contours according to United States Geodetic Survey Datum at intervals not to exceed two feet. Existing contours are to be indicated by solid lines; proposed contours are to be indicated by dashed lines.

(n) Existing elevations of the road or right-of-way contiguous to the site.

(o) The location of all existing significant natural features such as boulders, rock outcrops, watercourses, depressions, ponds, marshes and other wetlands, whether or not officially mapped.

(p) All proposed streets, with profiles indicating grading and cross sections showing width of roadway, location and width of sidewalk, if any, and location and size of utility lines.

(q) All means of vehicular ingress and egress to and from the site onto public or private streets, showing the size and location of driveways and curb cuts and sidewalks, if any.

(r) All provisions for pedestrian access to the site and internal pedestrian circulation.

(s) The location and design of any off-street parking areas, loading or outdoor storage areas.

(t) The location of all proposed water lines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment.

(u) The proposed location, direction of illumination, power and time of proposed outdoor lighting.

(v) The location, design and type of construction of all proposed signs.

(w) The proposed stormwater drainage system.

(x) Structural elevation calculations.

(y) Zoning calculations.

(z) Illustration of all proposed structures as they relate to sky exposure plane.

(aa) Delineation of Flood Plain Zone as shown on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and adopted by the Village of Old Westbury.

(bb) Delineation of tidal and freshwater wetland areas as designated by the New York State Department of Environmental Conservation.

(4) Landscaping plan, prepared by a licensed Landscape Architect, drawn at a scale of not less than one inch equals 20 feet, and which contains the following information:

(a) Outlines of all existing and proposed structures, driveways, walkways and impervious surfaces to be located on the property.

(b) The location of all existing significant natural features such as boulders, rock outcrops, watercourses, depressions, ponds and marshes.

(c) The location of all trees, identified by type or species and size, bearing a trunk circumference greater than 20 inches measured at a point four feet six inches above ground level.

(d) The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be removed.

(e) The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be preserved.

(f) Location of all trees, shrubs and/or other vegetation, identified by size, height and type or species, which are to be provided.

(g) A separate list of all trees and shrubs, identified by size, height and type or species, that are to be removed and/or to be provided. Plant material list should be shown in chart form, keyed to the drawing, including quantities, common name, botanical name, and size to include caliper size and greater height. Caliper inches should be totaled at the bottom of the chart. A calculation should be shown demonstrating the requirement that the total of trees to be planted in caliper inches exceeds the removal by 10% or more. All plantings should be to scale, and scale dimension should be noted.

(h) A signed and sealed letter of certification from the landscape architect is required, after all plantings are done for the issuance of a Certificate of Occupancy of Certificate of Completion.

(i) Any additional trees to be removed that are not listed on the original approved landscape plan, require a tree removal permit with 110% replacement, issued by the Village prior to the removal.

(5) Photographs (two sets only) of existing structures of the property and surrounding landscaping/screening.

(6) Environmental assessment form completed and signed by the applicant.

(7) Original building permit application which was reviewed by the Building Department.

(8) Building Department's memorandum of review.

(9) Identification of all required permits or approvals from the Village or any other governmental body, and a record of application for and status of such permits or approvals.

(10) List of the names of all owners of property contiguous to the subject premises and, if the subject premises is adjacent to a private road, the owners of all other properties adjacent to the private road, together with section, block and lot numbers of said property, as shown on the current tax roll of the Village.

(11) Certificate of title and deed(s) for the existing lot(s).

(12) Letter from the Old Westbury Water District regarding availability of water to the site (for new structures only).

(13) All appropriate permit fees, charges and deposits required by the Village pursuant to Chapter **103** of the Village Code.

(14) Any other information found by the Planning Board or Building Department to be necessary to reasonably determine compliance of the site plan with this chapter and Village Law, § 7-725-a.

(15) A stormwater pollution prevention plan consistent with the requirements of Chapter **178**, Article **I**, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Chapter **178**, Article **I**. The approved site plan shall be consistent with the provisions of this Chapter **178**, Article **I**.

(16) For the construction of any new structure or accessory structure, a complete list of all exterior materials to be used, including a materials board to be presented to the Planning Board. Catalogue cut sheets and manufacture's name and styles are required for the following exterior finishes:

- (a) Chimney;
- (b) Roof;
- (c) Exterior walls;
- (d) Exterior trim;
- (e) Stone;
- (f) Gutter and leaders;
- (g) Windows and window trim;
- (h) Front door;
- (i) Columns;
- (j) Railings;
- (k) Garage doors;
- (l) Patios and paths; and
- (m) Piers, gates and walls.

(17) For the construction of new dwellings only, a three dimensional digital rendering, to scale, with an isometric views of the proposed new dwelling.

(18) All Applicants shall be required to stake out the lot with lath and colored ribbon outlining the footprint of all structures, including the driveway, and provide an elevation pole showing the maximum building height and first floor elevations of all structures.

B. The Building Department or the Planning Board may waive any of the above requirements it determines to be unnecessary for the appropriate review of a particular application, including such applications pursuant to Section 174-4(D), but such waiver shall not be binding upon the Planning Board, unless so authorized by the Board.

§ 174-6. Considerations included in review.

A. In reviewing any application for site plan approval, the Planning Board shall be guided, as appropriate, by the following general and specific considerations:

(1) The location, arrangement, size, design and general site compatibility of buildings and structures.

(2) The adequacy and arrangement of vehicular access and circulation. All driveways to a public or private street shall be so located to afford maximum safety to said roadway and to provide for safe and convenient ingress and egress and to minimize conflict with the flow of traffic, and shall be designed to permit emergency vehicles and service vehicles such as delivery trucks, solid waste collection vehicles and the like to have reasonable access to and space for their intended functions.

(3) The adequacy and arrangement of off-street parking, loading and outdoor storage.

(4) The adequacy and arrangement of pedestrian traffic access and circulation.

(5) The adequacy of stormwater and drainage facilities. Provision shall be made for the drainage of surface runoff waters in and from the premises so that flooding and erosion of the property and the property of others will be prevented, to the maximum extent practicable.

(6) The adequacy of water supply and sewage disposal facilities.

(7) The adequacy, type and arrangement of trees, shrubs and other landscaping and natural screening constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.

(8) The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

(9) Protection of adjacent or neighboring properties against noise, glare, unsightliness and nuisances.

(10) The overall impact of the proposed development on the neighborhood and surrounding uses, including compatibility of architectural and design considerations.

B. The Planning Board shall not approve a site plan application if it determines that the building or structure, if constructed, erected, reconstructed or altered in accordance with the submitted plan, will result in any of the following:

(1) Be visually offensive, or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the sites or surroundings;

(2) Mar the appearance of the area;

(3) Impair the use, enjoyment and desirability and reduce the value of properties in the area;

(4) Be detrimental to the character of the neighborhood;

(5) Prevent the most appropriate development and utilization of the site or of adjacent land; or

(6) Adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.

(7) Monotonous similarity to any other structure or building located or proposed to be located on the same subdivision in respect to one or more of the following features of exterior design and appearance:

(a) Substantially identical facade, disregarding color.

(b) Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements.

(c) Other substantially identical features, such as, but not limited to, setbacks from street lines, heights, widths and lengths of elements of building design and exterior materials and treatments.

(8) Striking dissimilarity, visual discord or inappropriateness, with respect to other structures or buildings located or proposed to be located in the same subdivision or located within 500 feet of the site of the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

(a) Facade, disregarding color.

(b) Size and arrangement of doors, windows, porticos, porches or garages or other openings, breaks or extensions in the facade.

(c) Other significant design features such as, but not limited to, heights, widths, length of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas, fences, service and areas.

(9) Visual offensiveness or other poor qualities of exterior design including, but not limited to, excessive divergences of the height or levels of any part of the structure or building from the grade of terrain, harmony or discord of color or incompatibility of the proposed structure, building, refurbishing, reconstruction, alteration or addition with the terrain on which it is to be located, the failure of the exterior design to complement and enhance the natural beauty of its site, in regard to landscape, topography, surrounding structures and the scenic character of roadways when visible from said roadways.

§ 174-7. Referral to Village Planner.

In connection with its review of any site plan under this Site Plan Review Law, the Planning Board, in its discretion, may refer any site plan application to the Village Planner for his review, comment and recommendations. The applicant shall be responsible for the Village Planner's fees in accordance with Chapter **103** of the Village Code.

§ 174-8. Public hearing.

The Planning Board shall conduct a public hearing with regard to every application for site plan review within 62 days of the date the application is found to be complete by the Planning Board.

§ 174-9. Notice of public hearing.

The applicant shall mail notice of the public hearing, by certified mail, return, receipt requested to the owners of all properties contiguous to the subject premises and, if the subject premises is adjacent to a private road, to the owners of all other properties adjacent to the private road at least 10 days prior to such hearing, and the Village shall cause notice of the public hearing to be published in the official newspaper of the Village at least five days prior to such hearing.

§ 174-10. Decisions.

A. The Planning Board shall render a decision on each site plan application within 62 days after the public hearing portion of the review procedure is closed.

B. The Board's decision shall be filed in the office of the Village Clerk within five business days after such decision is rendered and a copy mailed to the applicant.

C. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

§ 174-11. Judicial review.

Any person aggrieved by a final site plan determination by the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the Village Clerk.

§ 174-12. Waiver of requirements.

Any requirement for the approval or approval with modifications and/or conditions of site plans submitted for approval may be waived by the Planning Board upon a finding that such requirement is not in the interest of the public health, safety or general welfare or is inappropriate to a particular site plan.

§ 174-13. Adoption of further rules and regulations.

The Planning Board may, consistent with this chapter, adopt such further rules and regulations, after public hearing, as it deems reasonably necessary to carry out the provisions of this chapter.

§ 174-14. Application for area variance.

Where a proposed site plan contains one or more features which do not comply with the bulk and area requirements of the Village Building Zone Ordinance,^[1] applications may be made directly to the Board of Appeals for an area variance based on plans which the Board deems to be adequate for the purposes of the application without first obtaining a final decision or determination by the Building Department.

§ 174-15. Extension of original jurisdiction; amendments; authority to rescind site plan.

A. Until a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration, addition or improvement contained within an approved site plan, the Planning Board shall have continuing jurisdiction to review and act upon a site plan, including any and all amendments to the approved site plan.

B. The Planning Board shall review and act upon an application for an amendment to an approved site plan in the same manner as the review of an original site plan.

C. In the event that it is determined that unauthorized changes have been made to an approved site plan, the Planning Board may rescind its prior site plan approval in its entirety or in part.

§ 174-16. Compliance with other applicable provisions required.

Unless otherwise indicated, all construction, reconstruction, alterations, additions and improvements shall comply with all other applicable ordinances, local laws, rules and regulations of the Village and any other governmental entity

§ 174-17. Amendments and penalties for offenses.

A. Final approved maps or plans, materials and specifications may not be altered in any way without the express prior approval of the Planning Board. Any requested changes of the approved plans or maps must be submitted to the Planning Board in the same manner as set forth in this Chapter, and no construction work involving such changes shall be commenced or continued until approval of the Planning Board is granted, only after appropriate public hearing as set forth above. The Building Inspector shall, in cases of violation of this procedure, order all work to be halted and, if necessary, revoke the building permit until such time that amended plans or maps are approved by the Planning Board.

B. Unless as otherwise set forth herein, any person violating any provision of this chapter shall pay a penalty of not more than \$10,000 for each and every offense, and each day a violation is continued after written notice from the enforcement officer shall constitute a separate violation, so as to subject the violator to a fine of up to \$10,000 for each separate violation,

provided that a separate accusatory instrument is served and filed for each violation, but in no event shall the penalty be less than \$500. In all cases, the Village and the Board of Trustees may enforce obedience to Chapter **174** by injunction. If the Village proceeds by injunction and is successful, reasonable attorney's fees, engineering fees and other expert witness fees shall be paid by defendant.

§ 174-18. Security for performance.

A. The Planning Board may condition site plan approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond or irrevocable letter of credit in an amount determined by the Planning Board after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all improvements and landscaping, as shown on the approved site plan, shall be completed and to ensure against damage to the infrastructure, including public and private roads and drainage structures.

B. If public improvements are required, a separate cash deposit, performance bond or irrevocable letter of credit in an amount determined by the Planning Board after recommendation from the Village Engineer shall be submitted, which amount shall be sufficient to ensure that all required public improvements shall be completed.

C. Any bond, irrevocable letter of credit or cash deposit agreement required to be posted in connection with a site plan approval shall be in a form and substance acceptable to the Village Attorney.

D. No performance bond or irrevocable letter of credit or cash deposit agreement shall be accepted by the Village Clerk unless approved as to form and substance by the Village Attorney.

§ 174-19. Expiration of site plan approval.

Site plan approval shall automatically terminate and expire one year after the resolution granting approval is filed in the office of the Village Clerk unless a building permit has been issued thereon.

§ 174-20. When effective; applicability to prior site plans.

This chapter shall take effect immediately upon filing with the office of the Secretary of State, and, as to site plans filed prior to the public hearing on this chapter, the rules and regulations in effect at the time of filing shall govern the site plan approval process.

§ 174-21. Certification by Village Engineer prior to submission of an application.

Prior to the submission of any application to the Planning Board, based upon signed and sealed plans submitted to the Village Building Department, the Village Engineer must certify the proposed building volume and also certify that the topography as shown on the plans is accurate, and that the proposed drainage calculations meet the requirements of this Chapter and the Village Code.

Section 2. Chapter 174 of the Village Code of the Village of Old Westbury shall otherwise remain in full force and effect.

Section 3. Severability. If a court determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm or corporation or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date. This local law shall take effect immediately upon filing with the Secretary of State.

On motion made by Trustee Novick, seconded by Trustee Fastenberg, the foregoing Local Law was enacted upon the following vote:

Fred J. Carillo, Mayor	-	aye
Marina Chimerine, Deputy Mayor	-	aye
Cory Baker, Trustee	-	aye
Leslie Fastenberg, Trustee	-	aye
Edward Novick, Trustee	-	aye

Dated: Old Westbury, New York
August 15, 2016

Filed: Old Westbury, New York
August 16, 2016