

Article 4. Procedures and Rules

Section 400. Purposes

The provisions of Article 4 are the officially adopted procedures, standards, decision criteria, and public notice requirements to be observed in administering this Code, and are an integral part of this Code. They are intended to insure that all interested parties can effectively participate in land use and development decisions in the Town of Groton.

Section 401. Code Enforcement

This Code shall be enforced by the Code Enforcement Officer, an officer of the Town, appointed by and serving at the pleasure of the Town Board and operating in accordance with the provisions of Local Law #1 of the Year 2007 a copy of which is included in Appendix A. The Town Board may appoint additional officers on a temporary or permanent basis as it deems necessary.

The Code Enforcement Officer is responsible for issuing Building Permits, Certificates of Occupancy, Certificates of Completion, Letters of Conformance, Orders to Remedy, Certificates of Compliance, Operating Permits, and Special Permits; explaining provisions of this Code; interpreting and reporting to landowners the location of district boundaries on the Zoning Map; informing applicants of all the Town regulations with which they must comply; and referring applications to the appropriate bodies for review or appeal in accordance with the provisions of this Code. The above-stated responsibilities are not all inclusive, but are intended to provide a general overview of the duties of the Code Enforcement Officer.

The Code Enforcement Officer shall not issue permits or certificates of any kind for any building, alteration, or land use which is not in conformance with the provisions and/or procedures of this Code.

Section 402. Violations and Penalties

- a. Any person, firm, corporation, or other entity who disobeys, neglects or refuses to comply with any provision of this Code, shall be guilty of an offense punishable by a fine not exceeding \$350.00 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 \$350.00 nor more than \$700.00 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 \$700.00 or more than \$1000.00 or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Code shall be deemed misdemeanors and for such purposes only all provisions of law relating to misdemeanors shall apply. Each week's continued violation shall constitute a separate additional violation.

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- b. Any structure constructed, reconstructed, altered, converted or maintained in offense of this Code, or any land use conducted in offense of this Code, may be removed, closed or halted at once by the Code Enforcement Officer with the issuance of a stop order.
- c. The Town may obtain an action to restrain by injunction any offense of this Code or any failure to comply with any of the provisions of this Code.

Section 403. Permits

403.1 Building Permits. A Building Permit shall be required for any work which must conform to the New York State Uniform Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, except for structures 144 square feet or less and any other exemptions listed in Section 4, Part B of Local Law #1 of the Year 2007, included as Appendix A. Additionally, the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit shall require a Building Permit.

No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

403.2 Sign Permits. No sign in any district shall be built, installed, extended or modified in any other way without the requisite Sign Permit being issued by the Code Enforcement Officer.

403.3 Fence Permits. Permits are required for fences higher than 6 feet from ground level to the top of the fence. The construction or replacement of any swimming pool fence requires a Building Permit. No fence for which a permit is required shall be built, installed, extended or modified in any other way without the requisite permit being issued by the Code Enforcement Officer.

403.4 Demolition Permits. No building, structure or manufactured home in any Zoning District shall be demolished without the requisite Demolition Permit being issued by the Code Enforcement Officer. If applicable according to State Labor Law, the appropriate Asbestos Abatement Plan shall be submitted before issuance of a Demolition Permit.

403.5 Operating Permits. Pursuant to Local Law #1 of the Year 2007, a copy of which is included in Appendix A, an Operating Permit shall be required for

- a. storing, manufacturing, or handling quantities of hazardous materials when quantities exceed those allowed by the Fire Code of New York State.
- b. hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- c. for the use of any pyrotechnic device in any place of assembly.

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- d. for any place of assembly with an occupant load of 100 persons or more to assure that life and fire safety concerns are maintained.
- e. buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

Operating Permit applications are available in the Town Clerk's Office and the Code Enforcement Office and are issued by the Code Enforcement Officer.

Section 404. Certificate of Occupancy or Certificate of Completion

404.1 Each property owner shall be responsible for compliance with all terms of this Code affecting his or her property. The Code Enforcement Officer shall issue a Certificate of Occupancy or Completion when he is satisfied that the proposed use complies with this Code and that structures have been erected and the site developed in accordance with submitted plans.

404.2 No habitable structure shall be occupied until a Certificate of Occupancy is issued by the Code Enforcement Officer. Furthermore, no addition to habitable space or the alteration of non-habitable space into habitable space shall be occupied until an Certificate of Occupancy is issued.

404.3 Any non-habitable structure shall not be used until a Certificate of Completion is issued by the Code Enforcement Officer. Such Certificate of Completion shall carry the same weight as does a Certificate of Occupancy.

Section 405. Letter of Conformance

405.1 Purpose. Letter of Conformance is for the purpose of establishing that certain existing lots, structures, and activities were in conformance with or not in conformance with provisions of this Code at the time of adoption or amendment of this Code, and documenting and recording their legal status for the protection of their owners.

405.2 Applicability. Any person with a legal interest in any lot, structure, or activity in the Town may request from the Code Enforcement Officer a determination as to whether their property conforms to this Code. In addition, a determination can be initiated by the Code Enforcement Officer or by direction of the Planning Board, Zoning Board of Appeals, or the Town Board.

405.3 Contents. The Letter of Conformance states what, if any, aspects of the lot, facility, or activity do not conform to this Code; the section numbers of the regulations not conformed to; and the date on which the letter was issued.

Section 406. Fees

All fees for applications and permits shall be established by resolution of the Town Board.

Section 407. Approval of Tompkins County Health Department

No Site Plan Approval or Special Permit approved under the terms of this Code is valid unless the action is in compliance with the rules and regulations of the Tompkins County Health Department.

Section 408. Referral to County Planning Department

Since the Town is in Tompkins County, which has a County Planning Department, the Zoning Board of Appeals, the Planning Board, and the Town Board must, before taking final action on certain matters, refer them to the Tompkins County Planning Commissioner for review, pursuant to Article 12-B, Sections 239 (l, m & n) of the New York State General Municipal Law.

408.1 Pursuant to an agreement entitled *“2004 Inter-governmental Agreement for Tompkins County Review of Local Zoning and Planning Actions Under New York State General Municipal Law”* (shown in its entirety as Appendix B) the following Variance Applications shall be referred to the Tompkins County Planning Department for review:

- a. Lot frontage, width or depth Variances for non-residential uses;
- b. Lot Area Variances for additions to non-residential uses on existing non-conforming lots;
- c. Setback Variances abutting County or State property, a State or County road right-of-way, or a municipal boundary;
- d. Sign Variances exceeding local standards by more than 20%.

408.2 Pursuant to an agreement entitled *“2004 Inter-governmental Agreement for Tompkins County Review of Local Zoning and Planning Actions Under New York State General Municipal Law”* (shown in its entirety as Appendix B) the following Site Plan Review Applications shall be referred to the Tompkins County Planning Department for review:

- a. Site Plan Reviews, except for permitted accessory uses and home occupations on residential lots;
- b. Site Plan Reviews for change of commercial use in an existing building that also involves any change in building footprint and with no change in vehicular access on a State or County highway;
- c. Site Plan Reviews for change of commercial use in an existing building that also involves any change in vehicular access on a State or County highway;

In the event that either the Town of Groton or Tompkins County terminates their agreement all requirements of GML Article B12 (l, m, & n) shall be followed.

408.3 When referral is required to be made to the Tompkins County Planning Department, within 30 days of receipt of a full statement of such referred matter, the Tompkins County Planning Department shall make a recommendation, accompanied by a full statement of the reasons for such recommendations. If the Tompkins County Planning Department fails to respond within 30 days, the municipal board having jurisdiction may act without such recommendation. If the County Planning Department makes a finding of significant impact, the municipal board having jurisdiction shall not approve the proposed action except by a vote of a majority plus one of all the members.

408.4 When referral is required to be made to the Tompkins County Planning Department, within seven days after final action by the municipal board having jurisdiction, the board shall file a report of the final action it has taken with the Tompkins County Planning Department.

Section 409: reserved.

Section 410. Amendments to this Code

410.1 Authority.

The Town of Groton Land Use and Development Code is a local law. The regulations, restrictions, and boundaries set forth in this Code may from time-to-time be amended, supplemented, changed, or repealed by the Town Board in accordance with the procedural requirements set for in Article 3, Sections 20-27, of Municipal Home Rule Law of the State of New York for the adoption of local laws in general and shall take effect upon filing with the Secretary of State. The decision to consider an amendment is made by the Town Board.

410.2 Referral to Planning Board

The Town Board may, at its discretion, refer any amendment to this Code to the Planning Board for their review and recommendations. If referral has been made, the Planning Board shall submit its recommendations within 30 days or the Town Board may act without such recommendations.

410.3 Referral to County Planning Department

Pursuant to Section 239 (l & m) of New York State General Municipal Law, a complete copy of the local law or amendment shall be forwarded to the Tompkins County Commissioner of Planning at least 30 days before the Public Hearing. No action may be taken by the Town Board on the local law or amendment until a response has been received, or unless 30 days has expired without a response.

410.4 Referral to Other Jurisdictions

Written notice, at least 10 days prior to the hearing, must be given to the following agencies, if the land affected by the amendment lies within 500 feet of land in the

following jurisdictions:

- a. Any State park or parkway: the State Regional Park Commission,
- b. Any housing authority project area: the housing authority,
- c. Any city, village, or town: the clerk of the city, village, or town, and
- d. Any other county: the clerk of the legislative body of that county,

410.5 Public Informational Meetings

The Town Board may, at its discretion, hold one or more public informational hearings for the purpose of informing the public as to the proposed amendments.

410.6 State Environmental Quality Review

A full environmental assessment review shall be completed pursuant to New York State Department of Environmental Conservation regulations, 6NYCRR, Part 617. The Town may, as it deems appropriate, integrate the procedures for review and the public hearing with the review and public hearing on the Local Law.

410.7 Procedure for Adopting or Amending a Local Law

The legal adoption or amendment of a local law must be made pursuant to New York State Law.

Section 411-419: reserved.

Section 420. Zoning Board of Appeals

420.1 Establishment. The Zoning Board of Appeals, established under Section 267 of New York State Town Law, is empowered to hear and decide appeals from and review any order, requirement, decision, or determination made by the Code Enforcement Officer with regard to this Code.

420.2 Board Members. The members of the Zoning Board of Appeals shall be citizens of the United States and residents of the Town of Groton of voting age. They are appointed by the Town Board to serve for staggered, 5-year terms as prescribed by New York State Town Law, Section 267. Vacancies that may occur shall be filled in the same manner.

420.3 Officers. The Town Board designates the Chair of the Zoning Board of Appeals. The Zoning Board of Appeals chooses the Vice-Chair, who presides in the absence of the Chair. In the absence of both the Chair and the Vice-Chair, the Zoning Board of Appeals chooses one of its members as Acting Chair. The Chair, Vice-Chair, or Acting Chair, may administer oaths and compel the attendance of witnesses. The Zoning Board of Appeals may appoint a recording secretary to take minutes of all its meetings. The recording secretary need not be a member of the Board.

420.4 Rules and Regulations. The Zoning Board of Appeals must adopt rules governing its procedures and orders for carrying out the provisions of this Code. All its procedures and orders must be in accordance therewith.

Section 421. Appeals and Variances

The purpose of Sections 422-431 is to set forth procedures and conditions under which appeals on enforcement of the provisions of this Code can be heard and decided by the Zoning Board of Appeals.

Procedures set forth herein are intended to ensure that the intent of this Code is observed, but that unnecessarily rigid restriction on development is avoided.

An appeal may be for a Variance in the regulations as they apply to a specific site, which, if granted, runs with the site irrespective of future changes in ownership.

An appeal may also be for an interpretation of the language of this Code when the appellant disputes a decision made by the Code Enforcement Officer. The determination of the Zoning Board of Appeals establishes the interpretation of the disputed language wherever it may apply.

An appeal may also be for an interpretation of the language of this Code when the appellant disputes a decision made by the Code Enforcement Officer. The determination of the Zoning Board of Appeals establishes the interpretation of the disputed language wherever it may apply.

Section 422. Power to Hear and Decide Appeals

The Zoning Board of Appeals is empowered to hear and decide appeals of and review any order, requirement, decision, or determination made by the Code Enforcement Officer with regard to this Code.

In passing upon appeals of actions by the Code Enforcement Officer, the Zoning Board of Appeals has the power to vary or modify the application of the zoning regulations, so that the intent of this Code is observed, and the public health, safety, and welfare secured. In considering the grant of a Variance, the Zoning Board of Appeals shall comply with the criteria for the granting of such Variances set forth in New York State Town Law, Section 267, as amended from time to time.

Section 423. Parties Who May Appeal

Appeals may be filed by any public body or official of the Town, person, firm, corporation, or other party aggrieved by an action of the Code Enforcement Officer. Any party may appeal to the Zoning Board of Appeals if the action of the Code Enforcement Officer appealed affects adversely a property right or other legal interest of the appellant. An applicant for a Building Permit may be aggrieved by the refusal of the Code Enforcement Officer to issue a Building Permit. (For Appeals Procedure see Section 425.)

Section 424. Appeal Procedure by Zoning Board of Appeals

424.1 Time of Hearing of Appeals. The Zoning Board of Appeals shall conduct a hearing on all appeals within 62 days of the receipt of the appeal application. The receipt of the appeal application shall be considered to be the date on which the application, complete and accompanied by the required fee and all data required by Section 428 of this Code, has been filed with the Town Clerk.

424.2 Notice of Hearing. Notice of a hearing shall be published in the Town's official paper. Notices of hearings shall be mailed to the applicant, any others having jurisdiction, the Regional State Park Commission having jurisdiction over any State park or parkways within 500 feet of the lot which is the site of the appeal and to the owners of record, as shown on the current tax role, of all lots within 500 feet of the lot which is the site of the appeal.

The notice shall state the location of the structure or lot, the general nature of the question being heard, the date, time, and place of the hearing, and the nature of the relief being sought and must precede the date of the hearing by at least five days.

424.3 Referral to County Planning Department. Referral to County Planning Department shall be made in accordance with Section 408.1 of this Code.

424.4 General Rules. Any party may appear in person, by agent, or by attorney.

The Chair, or in the Chair's absence, the Vice-Chair or Acting Chair, may administer oaths and compel the attendance of witnesses.

424.5 Rehearing. Upon motion initiated by any member and adopted by unanimous vote of the members present, but not less than a majority of all the members, the Zoning Board of Appeals may review at a rehearing any order, decision, or determination of the Zoning Board of Appeals not previously reviewed, in accordance with Section 267a (12) of New York State Town Law. Notice must be given as upon an original hearing.

Upon rehearing, and provided that it appears that no vested rights due to reliance on the original order, decision, or determination will be prejudiced thereby, the Zoning Board of Appeals may, upon the concurrence of all the members present, reverse, modify, or annul its original order, decision, or determination.

An application for a rehearing may be made in the same manner as provided for the original hearing. The application for rehearing may be denied by the Zoning Board of Appeals if from the record it appears that there has been no substantial change in fact, evidence, or conditions.

424.6 Consultant Review. The Zoning Board of Appeals may consult with any local, County, State, Federal or private individual or agency in the course of its deliberations on any appeal. Any cost for consultant review may be charged to the applicant.

Section 425. Appeals Procedure by an Applicant

425.1 An Appeal must be made within 60 days of the Code Enforcement Officer's action or decision.

425.2 The Appeal Application shall be submitted to the Town Clerk on the application form provided for that purpose. Application forms shall be available in the Office of the Town Clerk. The Code Enforcement Officer is responsible for instructing the parties concerned on the proper manner for completing and filing the forms.

425.3 The Appeal must show what relief is sought or what type of Variance, if any, is being sought (see Sections 428-430).

425.4 All information required on the forms must be complete and the fee paid before an Appeal Application is considered received.

425.5 Copies of the completed Appeals Application shall be forwarded to each member of the Zoning Board of Appeals, the recording secretary, and any other party having jurisdiction.

425.6 Appeals may be amended prior to the Public Hearing providing that the public has not been notified either by a Public Notice in the Town's official newspaper or by the mailing of notices to the adjoining landowners.

425.7 The appellant must be notified by letter at least five days prior to the hearing that the appeal is scheduled for the hearing or that the Appeal is incomplete and cannot be scheduled.

Section 426. Reserved

Section 427. Decisions by the Zoning Board of Appeals

427.1 Time of Decisions. Decisions by the Zoning Board of Appeals shall be made not later than 62 days from the close of its hearing.

427.2 Types of Decisions. The Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from; and shall make such order, requirement, decision, or determination as it sees fit; and to that end shall have all of the powers of the officer from whom the appeal is taken.

In deciding on an Appeal by an appellant, the Zoning Board of Appeals may grant Variances as described in Sections 428-430. The Zoning Board of Appeals, in the granting of Variances, shall grant the minimum Variance that it shall deem necessary and adequate to address the unnecessary hardships proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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427.3 Form of Decision. The final decision on any matter before the Zoning Board of Appeals must be made by written order signed by the Chair, Vice Chair or Acting Chair. The decision must state the findings of fact, which were the basis for the decision, and any conditions and safeguards necessary to protect the public interest.

427.4 Filing of Decisions. Decisions of the Zoning Board of Appeals must be filed immediately in the Office of the Town Clerk and are public record. The date of filing of each decision is to be entered in the official records and minutes of the Zoning Board of Appeals.

Copies of the decision are to be forwarded to the appellant, and any others having jurisdiction.

A copy of the decision, including all terms and conditions, is to be transmitted to the Code Enforcement Officer and is binding upon and observed by the Code Enforcement Officer. Within 20 days after a decision by the Zoning Board of Appeals, the Code Enforcement Officer shall take the action directed by the Zoning Board of Appeals. Those actions are to issue, extend, revoke, or issue with modifications a Building Permit or certificate. The Code Enforcement Officer must fully incorporate the terms and conditions in the Building Permit to the appellant whenever a Building Permit is authorized by the Zoning Board of Appeals.

427.5 Basis for Decisions. In reaching the decision, the Zoning Board of Appeals shall be guided by standards specified in the applicable sections of this Code as well as the community goals and policies as outlined in the Comprehensive Plan and by the findings of the Zoning Board of Appeals in each case.

The Zoning Board of Appeals is expressly prohibited from basing its decisions on:

- a. The presence of a nonconforming lot, structure, or activity nearby or in the same Zoning District, or
- b. Any condition, lot, structure, or activity in another Zoning District or another municipality.

427.6 Findings. The findings of the Zoning Board of Appeals and the supporting facts shall be stated in detail in the written decision regardless of whether it is based on evidence submitted or on the personal knowledge of the Zoning Board of Appeals members.

The evidence on which the findings are based must be included in outline form in the written decision.

The Zoning Board of Appeals must show that:

- a. It has made an intelligent review of the question,
- b. It has considered all of the information or evidence,

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- c. It has heard all parties in question,
- d. Any intimate knowledge it has of the subject under question has been taken into account, and
- e. An inspection by a board member and/or the Code Enforcement Officer of the lot in question has been made, and from this examination certain findings were made.

These requirements are for the purpose of making judicial review possible.

427.7 Expiration of Orders. Unless substantial progress has been made pursuant to the written decision and order, or unless the decision and order specifically states otherwise, the order and any associated Building Permit expires one year after the date of issuance of the decision and order. If at the expiration date the permitted work is not completed, but is being pursued and substantial progress is being made, the Code Enforcement Officer may extend the Building Permit for one year.

If at the expiration date the Code Enforcement Officer finds that the permitted work is not being diligently pursued and no substantial progress has been made, the order and the Building Permit become void by letter to the appellant by the Code Enforcement Officer with copies to the Zoning Board of Appeals and filed with the Town Clerk.

Upon expiration of an order, said order has no legal standing whatsoever. If the applicant still wishes to pursue the matter, the process shall be started over with application for a Building Permit, denial by the Code Enforcement Officer, appeal to the Zoning Board of Appeals and the decision to grant a Variance. In addition, all appropriate fees shall be paid again.

Section 428. Requirements for Granting Area Variances

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. The Zoning Board of Appeals shall also consider (in accordance with Section 267 of New York State Town Law):

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance,
- b. Whether the benefit sought by the applicant can be achieved by some alternate method, feasible for the applicant to pursue, other than an Area Variance,
- c. Whether the requested Area Variance is substantial,
- d. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or Zoning District, and

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- e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.

The Zoning Board of Appeals may impose any reasonable condition that will protect the health, safety and welfare of the neighborhood or community in granting such a Variance, within the scope and purposes of this Code.

Section 429. Requirements for Granting Use Variances

No Use Variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such necessary hardship, the applicant shall demonstrate that (in accordance with Section 267 of New York State Town Law):

- a. Under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence,
- b. The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood,
- c. The requested Use Variance, if granted, will not alter the essential character of the neighborhood, and
- d. The alleged hardship has not been self-created.

The Zoning Board of Appeals may impose any reasonable condition that will protect the health, safety and welfare of the neighborhood or community in granting such a Variance, within the scope and purposes of this Code.

Section 430. Requirements for Granting Variances for Building on Proposed Public Land

Before granting any Variance for building on a site proposed for public acquisition on the Zoning Map of the Town or County (in accordance with Section 279 of New York State Town Law and Section 239-j of General Municipal Law), the Zoning Board of Appeals must make findings on the following points:

- a. The lot or structure in question cannot reasonably be used for any activity permitted or conditionally permitted by the land use regulations,
- b. The action sought to be permitted will increase the cost of public acquisition of the site as little as possible, and
- c. The action sought to be permitted will as little as practicable tend to cause a change in the Zoning Map.

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The Zoning Board of Appeals may impose reasonable requirements as a condition of granting the Variance, which requirements benefit the Town.

Section 431. Requirements for Revoking or Modifying a Permit

On appeal from a party aggrieved by the issuance of a Building Permit, the Zoning Board of Appeals may revoke or modify a Building Permit if it makes the following findings:

- a. The issuance of the Building Permit was based on an erroneous interpretation of this Code or an error in measurement, and
- b. The action appealed from does not conform to the letter of this Code.

Sections 432-439. Reserved

Section 440. Site Plan Review / Planning Board

440.1 Establishment.

There is hereby established for the purpose of carrying out the functions provided for in Section 274-a of New York State Town Law, a Site Plan Review Board; the Site Plan Review Board function is hereby delegated to the Planning Board.

440.2 Decisions.

The Planning Board has the authority under this Code to review and approve, approve with modifications, or disapprove Site Plans submitted under the provisions of this Code. Planning Board decisions shall be filed with the Town Clerk within 5 days and a copy mailed to the applicant.

440.3 Rules and Regulations.

The Planning Board may adopt rules and regulations it deems necessary for carrying out the provisions of this Code. All its procedures and orders must be in accordance therewith.

440.4 Appeals of Decisions by the Planning Board.

Any person aggrieved by any decision of the Planning Board may apply to an appropriate Court of the State of New York 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 Town Clerk.

Section 441. Site Plan Review and Approval

441.1 Applicability.

Whenever the provisions of Article 3 of this Code require the approval of a Site Plan, a proposed Site Plan shall be submitted to the Planning Board for its review and approval. No Site Plan Approval shall be granted for any proposed improvements that would be in violation of use restrictions, required yard setbacks, lot coverage limits or any other provisions of this Code unless conditioned upon the granting by the Zoning Board of Appeals of any required Variance(s). No Building Permit shall be issued prior to the approval of the Site Plan by the Planning Board and the granting of a Variance by the Zoning Board of Appeals if needed.

441.2 Sketch Plan Conference.

A Sketch Plan Conference may be held between the Planning Board and the applicant to review the basic site design concept and generally determine the information to be required on the Preliminary Site Plan. At the Sketch Plan Conference, the applicant should provide the data discussed below in addition to a statement or rough sketch describing what is proposed.

- a. An area map showing the parcel under consideration for Site Plan Review, and all properties, subdivisions, streets, and easements within 200 feet of the boundaries.
- b. A map of site topography at no more than 5 feet contour intervals. If general site grades exceed five percent or portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and a topographic map showing contour intervals of not more than 2 feet of elevation should also be provided.

441.3 Application for Preliminary Site Plan Approval.

An application for Preliminary Site Plan Approval shall be made in writing to the Planning Board and shall be accompanied by the following information:

- a. A completed and signed application form.
- b. Two prints of the proposed Site Plan no larger than 11 by 17 inch. (If the project is of such size and/or intricacy that it can not be clearly shown on 11 by 17 inch paper, it may be presented on larger paper.)
- c. Completed and signed Part I Section of the Short Environmental Assessment Form (SEAF) or the Long Environmental Assessment Form (LEAF), as determined by 6NYCRR Part 617
- d. Completed Agricultural Data Statement if property is located within an Agricultural District.
- e. Payment of all application fees as established by resolution of the Town Board.

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- f. Title block showing name of project, title of each drawing, name and address of applicant and person responsible for preparation of drawing, and date of drawing.
- g. North arrow and drawing scale in graphic form.
- h. Boundaries of the property plotted to scale.
- i. Existing watercourses and water bodies, both natural and man-made, as well as wetlands.
- j. Proposed grading and drainage plan, showing existing and proposed contours.
- k. Size, location, design, construction materials and use of all existing and/or proposed buildings and structures, access drives, above and below ground utilities and other improvements to the site.
- l. Location and description of all existing vegetation on the site.
- m. Location of all adjacent streets and highways, both public and private.
- n. Location, design, and construction materials of all parking and truck loading areas, showing access and egress.
- o. Provision for pedestrians.
- p. Location, design of outdoor storage areas or facilities.
- q. Location, design and construction materials of all proposed site utilities and other improvements, including drains, culverts, retaining walls, fences, above and below ground utilities and storm water management facilities.
- r. Description of the method of sewerage treatment and disposal and location, design, and construction materials of such facilities.
- s. Description of the method for securing potable water and location, design, and construction materials of such facilities.
- t. Location of fire and other emergency zones, including the location of fire hydrants.
- u. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar or wind energy systems.
- v. Location, size, design, and construction materials of all proposed signs.
- w. A landscaping plan and plant materials schedule, including locations and types of planting materials, and all buffer areas.
- x. Location and design of outdoor lighting facilities.

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- y. Designation of the amount and location of building area proposed for each activity type.
- z. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any Federal, State, or County permits required for the project's execution.

The Planning Board reserves the right to request additional information related to the above submission materials as considered reasonably necessary, and may choose to waive specific requirements in certain situations.

The receipt of the application shall be considered to be the date on which the application and the Site Plan, complete and accompanied by the required fee and all data required by this Section of this Code has been filed with the Town Clerk.

441.4 Review of Preliminary Site Plan.

At its next scheduled monthly meeting following the receipt of the application for Site Plan Review, the Planning Board shall review the Preliminary Site Plan. Referral to Tompkins County Planning Department shall be made in accordance with Section 408.2 of this Code.

The Planning Board's review of a Preliminary Site Plan shall include, as appropriate, the following general considerations:

- a. Compliance with the relevant design standards set forth in Article 3.
- b. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
- c. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience,
- d. Location, arrangement, appearance, and sufficiency of off-street parking and loading,
- e. Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs,
- f. Adequacy of storm water and drainage facilities,
- g. Adequacy of water supply, sewage disposal facilities and garbage and waste disposal.
- h. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation,

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- i. In the case of multi-family housing, the adequacy of usable open space for recreation areas,
- j. Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features,
- k. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants, and
- l. Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding or erosion.

441.5 Consultant Review.

The Planning Board may consult with any local, County, State, Federal or private individual or agency in the course of its deliberations on any application. Any cost for consultant review may be charged to the applicant.

441.6 Waiver of Certain Application Requirements

When considering a proposed Site Plan, whether it is a Preliminary Site Plan or a Final Site Plan, the Planning Board may waive one or more items or design details of the plan that are otherwise normally required under Section 441.3, if they determine that the lack of such information is not a hindrance to their consideration of the proposed Site Plan, or in some cases, if they determine that such items or details do not pertain to the proposed project.

441.7 Short Procedure

In the case of a small, simple, and non-controversial Site Plan Review, the Planning Board, after careful consideration and at its discretion, may move, by resolution, to shorten the review procedure for Site Plan Approval, and waive the requirement of a public hearing, under the following conditions:

- a. the Preliminary Site Plan satisfies all Preliminary Site Plan requirements of Section 441.3 as well as all detailed Final Site Plan requirements of Section 441.9, and
- b. no modifications to the Site Plan will be required by the Planning Board, and
- c. no new structures will be built and/or the footprint of existing structures are not being enlarged upon, and
- d. the project does not require referral to Tompkins County Planning Department pursuant to Section 408 of this Code .

Following review of the Site Plan, the Planning Board may approve the Preliminary and Final Site Plan as one action. Such action shall be in the form of a resolution or other

written statement and shall be filed with the Town Clerk within 5 days and a copy mailed to the applicant.

441.8 Regular Procedure

If the Short Procedure is not warranted, the Planning Board shall proceed with the Regular Procedure.

The Planning Board may conduct a Public Hearing on a Preliminary Site Plan. If a Public Hearing is considered desirable, the Public Hearing shall be scheduled within 62 days of the receipt of the application for Preliminary Site Plan Review. The hearing shall be advertised in the official Town newspaper at least 5 days before such hearing. The applicant and any others having interest or jurisdiction shall be notified at least 10 days before such Public Hearing.

Within 62 days of the close of the Public Hearing, or if no Public Hearing is held, within 62 days of the receipt of the application, the Planning Board shall act to approve, approve with modifications or disapprove the Preliminary Site Plan. If no decision is made within the 62-day period, the Preliminary Site Plan shall be considered approved. If the Planning Board, at its discretion, determines that the Preliminary Site Plan is:

- a. of a small, simple and non-controversial nature, and
- b. any required modifications are determined to be minor, of a technical nature and will have no impact on the design or character of the project, and
- c. any required response from the Tompkins County Planning Department or other agency has been received, and
- d. all final detailed Site Plan requirements of Section 441.9 are met by the Preliminary Site Plan as submitted,

The Planning Board may, by resolution, move to waive the requirement for a separate Final Site Plan Review and approve and grant Preliminary and Final Site Plan Approval as one action.

Alternately, the Planning Board may approve, approve with modifications or disapprove the Preliminary Site Plan Review and proceed to Final Site Plan Review.

The Planning Board's resolution or other written statement approving the Preliminary Site Plan may include reasonable conditions including modifications to the Preliminary Site Plan and shall be considered a condition of Preliminary Site Plan Approval. Such resolution shall also state any additional information that shall be included in the Final Site Plan application.

If the Site Plan is disapproved, the Planning Board's resolutions or other written statement shall contain the reason for said action. In such a case, the Planning Board

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may recommend further study of the Site Plan and resubmission after it has been revised or redesigned.

The Planning Board shall file a copy of its resolution or other written statement with the Town Clerk within 5 days of its decision and a copy shall be forwarded to the applicant.

441.9 Submission of Final Detailed Site Plan

After receiving approval, with or without modifications, from the Planning Board on a Preliminary Site Plan, the applicant shall submit a final, detailed Site Plan to the Planning Board for approval. If more than six months have elapsed since the time of the Planning Board's action on the Preliminary Site Plan and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the Preliminary Site Plan for further review and possible revision prior to accepting the proposed Final Site Plan for review.

The Final Site Plan shall conform substantially to the approved Preliminary Site Plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The following additional information must accompany an application for Final Site Plan Approval:

- a. Record of application for and approval status of all necessary permits from Federal, State, and County officials,
- b. Detailed sizing and final material specification of all required improvements,
- c. An estimated project construction schedule,
- d. A completed and signed application form,
- e. Two prints of the proposed Site Plan no larger than 11 by 17 inch. (If the project is of such size and/or intricacy that it can not be clearly shown on 11 by 17 inch paper, it may be presented on larger paper.)
- f. Any other written or graphic information that may be necessary to describe the proposed action, including any revisions or modifications made since receipt of Preliminary Site Plan Approval, and
- g. Payment of all application and advertising fees as established by the Town Board.

The receipt of the application shall be considered to be the date on which the application and the Final Site Plan, complete and accompanied by all data required by Section 441.9 of this Code, has been filed with the Town Clerk.

441.10 Public Hearing.

Within 62 days of receipt of an application for Final Site Plan Review, the Planning Board shall conduct a Public Hearing, which shall be advertised in the official Town newspaper at least 5 days before such hearing. The applicant and any other person having jurisdiction shall be notified at least 10 days before the Public Hearing.

441.11 Action on Final Detailed Site Plan.

Within 62 days after the close of the Public Hearing for a Final Site Plan, the Planning Board shall render a decision. If no decision is made within the 62-day period, the Final Site Plan shall be considered approved. The decision of the Planning Board with regard to Final Site Plan shall be in the form of a resolution or other written statement stating whether or not the Final Site Plan is approved, approved with modifications or conditions, or disapproved. Such resolution or other written statement shall be filed with the Town Clerk within 5 days and a copy provided to the applicant.

Upon approval of the Final Site Plan, completion of all modifications or conditions, and payment of the applicant of all fees and reimbursable costs due to the Town, the Planning Board Chair shall endorse its approval on a copy of the Final Site Plan.

Upon disapproval of a Final Site Plan, the Planning Board shall by its resolution or other written statement, record for the applicant as well as the public, its reason or reasons for its action. Such resolution or other written statement shall be filed with the Town Clerk within 5 days and a copy provided to the applicant.

If referral to the Tompkins County Planning Department was required pursuant to Section 408.2 of this Code, the Planning Board may not take final action on a Site Plan until referral has been complied with and a response received or 30 days have passed since the time of referral.

441.12 Reimbursable Costs.

Costs incurred by the Planning Board in connection with the review of a proposed Site Plan shall be charged to the applicant.

- a. The cost of advertising fees for Public Hearings.
- b. Costs incurred by the Town of Groton for engineering, planning, legal and other necessary expenses for the purpose of reviewing any application.
- c. Costs incurred by the Town of Groton for the review and/or preparation of an Environmental Impact Statement, if said statement is necessary.

Such reimbursable costs shall be paid to the Town of Groton prior to the issuance of any required Building Permit and/or prior to any commencement of business.

441.13 Performance Guarantee.

No Certificate of Occupancy or Certificate of Completion shall be issued until all improvements shown on the Final Site Plan as approved by the Planning Board are completed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Code Enforcement Officer, public works officials, or other competent persons. Said performance guarantee shall be in one of the following forms:

- a. Deposit by the applicant with the Town Clerk of a certified check in an amount set by the Planning Board to cover the full cost of the required improvements, or
- b. Filing by the applicant with the Town Clerk of a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 274a of New York State Town Law and further, shall be satisfactory to the Town Board and the Attorney for the Town as to form, sufficiency, manner of execution and surety. A period of one year, or other such period as the Planning Board may determine appropriate, not to exceed 3 years, within which required improvements must be completed shall be set forth in the bond.

441.14 Inspection of Improvements.

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for arranging any and all permits and inspections that are the jurisdiction of any official or agency other than the Code Enforcement Officer.

441.15 Integration of Procedures.

Whenever the particular circumstances of a proposed development require compliance with the requirements of these subdivision regulations, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Section with the procedural and submission requirements for Subdivision Review.

Whenever the review of the Environmental Assessment Form reveals that a Full Environmental Review is required in accordance with the New York State Environmental Quality Review Act (SEQRA), the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Section with the procedural requirements of SEQRA review.

441.16 Building Permits

Upon approval of the Final Site Plan and payment by the applicant of all fees and reimbursable costs to the Town of Groton, the Code Enforcement Officer may issue any necessary Building Permit to the applicant, provided they have met all other requirements

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for obtaining said Building Permit beyond those required by this Code. All Building Permits must be posted without delay at the project site in a conspicuous place, visible from the public right-of-way and protected so that the permit will be visible and legible for the duration of the work.

Unless the Code Enforcement Officer determines that substantial progress of the intended work for which Final Site Plan Approval has been received has been made within one year of the date of Final Site Plan Approval, the approval shall expire. The Code Enforcement Officer may extend the expiration date of the Final Site Plan Approval for one year for any good reason. Such extension shall be noted in the file and a report made to the Planning Board.

441.17 Stop Work Order and/or Order to Remedy

If the Code Enforcement Officer determines that there has been a deviation from the plans upon which the Final Site Plan Approval and any subsequent Building Permit were based in a manner which is significant in terms of the purposes and requirements of this Code, the Code Enforcement Officer shall issue a stop work order and/or order to remedy, and shall notify the applicant by official correspondence, place copies in the file and make a report to the Planning Board.

441.18 Modification of Approved Site Plans

If an applicant or property owner desires to modify an approved Final Site Plan they shall submit a new application, accompanied by the required fee, and the approval process will follow all steps as previously presented in this Section.

441.19 Abandonment of Approved Site Plans

Any use for which Final Site Plan Approval has been granted, but has been discontinued for a period of at least one year, shall not then be re-established without receipt of a new Final Site Plan Approval from the Planning Board.

Section 442. Special Permit Review

442.1 Authorization

The Town Board reserves Special Permit review authority to itself pursuant to New York State Town Law Section 274b and to review and approve, approve with modifications and/or conditions, or disapprove any proposal to develop land subject to Special Permit review as set forth in Article 3 of this Code.

442.2 Application

An application for Special Permit approval shall be made in writing to the Town Board and shall be accompanied by the following information:

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- a. A completed and signed application form.
- b. Two prints of proposed Site Plan no larger than 11 by 17 inch. (If the project is of such size and/or intricacy that it can not be clearly shown on 11 by 17 inch paper, it may be presented on larger paper.)
- c. Completed and signed Part I section of the Short Environmental Assessment Form (SEAF) or the Long Environmental Assessment Form (LEAF), as determined by 6NYCRR Part 617
- d. Completed Agricultural Data Statement if property is located within an Agricultural District.
- e. Payment of all application fees as established by resolution of the Town Board.
- f. Title block showing name of project, title of each drawing, name and address of applicant and person responsible for preparation of drawing, and date of drawing.
- g. North arrow and drawing scale in graphic form.
- h. Boundaries of the property plotted to scale.
- i. Existing watercourses and water bodies, both natural and man-made, as well as wetlands.
- j. Proposed grading and drainage plan, showing existing and proposed contours.
- k. Size, location, design, construction materials and use of all existing and/or proposed buildings and structures, access drives, above and below ground utilities and other improvements to the site.
- l. Location and description of all existing vegetation on the site.
- m. Location of all adjacent streets and highways, both public and private.
- n. Location, design, and construction materials of all parking and truck loading areas, showing access and egress.
- o. Provision for pedestrians.
- p. Location, design of outdoor storage areas or facilities.
- q. Location, design and construction materials of all proposed site utilities and other improvements, including drains, culverts, retaining walls, fences, above and below ground utilities and storm water management facilities.
- r. Description of the method of sewerage treatment and disposal and location, design, and construction materials of such facilities.

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- s. Description of the method for securing potable water and location, design, and construction materials of such facilities.
- t. Location of fire and other emergency zones, including the location of fire hydrants.
- u. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar or wind energy systems.
- v. Location, size, design, and construction materials of all proposed signs.
- w. A landscaping plan and plant materials schedule, including locations and types of planting materials, and all buffer areas.
- x. Location and design of outdoor lighting facilities.
- y. Designation of the amount and location of building area proposed for each activity type.
- z. Other elements integral to the proposed development as considered necessary by the Town Board, including identification of any Federal, State, or County permits required for the project's execution.

The Town Board reserves the right to request additional information related to the above submission materials as considered reasonably necessary, and may choose to waive specific requirements in certain situations.

The receipt of the application shall be considered to be the date on which the application, complete and accompanied by the required fee, all data required by Section 442.2 of these regulations, and any additional information required by the Town Board has been filed with the Town Clerk.

442.3 Review Procedure

The Town Board possesses “untrammelled, but of course not capricious, discretion” in making decisions on Special Permits. The Town Board is not bound by complete or exclusive standards when reviewing Special Permit applications, however, its actions must be reasonable and not arbitrary. The Town Board is free to consider any matter related to the public welfare in determining whether a particular Special Permit use is appropriate in a particular location.

In addition to applying any standards that may be set forth in Article 3 of this Code, the Town Board, in its deliberations may consider, among other things, whether

- a. The health, safety, and general welfare of the community are being promoted.
- b. The proposed land use is in harmony with the intent and general purpose of this Code.

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- c. The premises are reasonably adapted to the proposed use and the proposed use and location and design of any building, structure, or other improvements will be consistent with the character of the district in which it is proposed to be located.
- d. The proposed land use will not pose a detriment to the neighborhood character to the extent sufficient to devalue neighboring property.
- e. The proposed land use will not adversely impact quality of life for residents.
- f. The proposed land use will not exceed the capacity of community infrastructure and services, including, but not limited to, roads, water, sewerage, garbage collection, schools, fire, police, and emergency services.
- g. The potential noise, fumes, vibrations, illumination, or other potential nuisances that may result from the proposed land use will not be more objectionable to nearby properties than that of any other use permitted within the Zoning District in which the use is proposed.

442.4 Consultant Review.

The Town Board may consult with any local, County, State, Federal or private individual or agency in the course of its deliberations on any application. Any cost for consultant review may be charged to the applicant.

442.5 Referral to County Planning Department

Referral to Tompkins County Planning Department shall be made. No decision shall be made until a response has been received or a 30-day timeframe for commenting has expired as provided by General Municipal Law Section 239 (l & m).

442.6 State Environmental Quality Review

Whenever the review of the Environmental Assessment Form reveals that a Full Environmental Review is required in accordance with the New York State Environmental Quality Review Act (SEQRA), the Town Board shall attempt to integrate, as appropriate, Special Permit review as required by this Section with the procedural requirements of SEQRA review.

In the event that the procedures are not integrated, the time period for holding a Public Hearing on the Special Permit application does not commence until a negative declaration has been adopted or a Draft Environmental Impact Statement accepted as being sufficient to commence the public comment period.

442.7 Public Hearing

Within 62 days of the receipt of the application for Special Permit, the Town Board shall hold a Public Hearing, which shall be advertised in the official Town newspaper at least 5

days before such Public Hearing. The applicant and any others having jurisdiction shall be notified at least 10 days before such Public Hearing.

442.8 Action on Application for Special Permit

Within 62 days after the close of the Public Hearing, the Town Board shall act, by resolution, to approve, approve with modifications and/or conditions, or disapprove the application for Special Permit. A copy of the resolution shall be filed with the Town Clerk and a copy forwarded to the applicant within 5 days of the decision.

The Town Board's resolution approving the Special Permit may include reasonable conditions including modifications or conditions. Conditions and/or modifications imposed by the Town Board shall be sufficiently clear and definite so that the applicant and the public are not left in doubt regarding the parameters of the Special Permit and the obligations imposed on the applicant. Conformance with specified modifications and/or conditions shall be considered a condition of the Special Permit.

If the Special Permit is not approved by the Town Board, the resolution shall clearly state the reasons why.

442.9 Reimbursable Costs

Costs incurred by the Town Board in connection with the review of a proposed Special Permit shall be charged to the applicant. These costs shall include:

- a. The cost of advertising fees for Public Hearings.
- b. Costs incurred by the Town of Groton for engineering, planning, legal and other necessary expenses for the purpose of reviewing any application.
- c. Costs incurred by the Town of Groton for the review and/or preparation of an Environmental Impact Statement if said statement is necessary.

Such reimbursable costs shall be paid to the Town of Groton prior to the issuance of any required Building Permit and/or Special Permit.

442.10 Issuance of Building Permits

Upon approval of the Special Permit and payment by the applicant of all fees and reimbursable costs to the Town of Groton, the Code Enforcement Officer may issue any necessary Building Permit to the applicant, provided they have met all other requirements for obtaining said permit beyond those required by this Code. All Building Permits must be posted without delay at the project site in a conspicuous place, visible from the public right-of-way and protected so that the permit will be visible and legible for the duration of the work.

Unless the Code Enforcement Officer determines that substantial progress in the intended work for which Special Permit approval has been received has been made

within one year of the date of approval, the approval shall expire. The Code Enforcement Officer may extend the expiration date of the approval for one year for any good reason. Such extension shall be noted in the file and a report made to the Town Board.

442.11 Inspection of Improvements.

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for arranging any and all permits and inspections that are the jurisdiction of any official or agency other than the Code Enforcement Officer.

442.12 Issuance of Special Permit

Upon completion of all modifications and/or conditions, the payment of all reimbursable fees to the Town of Groton, and the issuance of a Certificate of Occupancy or Certificate of Completion, the Code Enforcement Officer shall issue the Special Permit, which shall be protected in a visible and legible way and posted in a conspicuous area of the business.

442.13 Stop Work Order and/or Order to Remedy

If the Code Enforcement Officer determines that there has been a deviation from the plans upon which the Special Permit approval and any subsequent Building Permit were based in a manner which is significant in terms of the purposes and requirements of this Code, the Code Enforcement Officer shall issue a stop work order and/or order to remedy, and shall notify the applicant by official correspondence, place copies in the file and make a report to the Town Board.

442.14 Modification of Approved Special Permits

If an applicant or property owner desires to modify an approved Special Permit they shall submit a new application, accompanied by the required fee, and the approval process will follow all steps as previously presented in this Section.

442.15 Abandonment of Approved Special Permits

Any use for which a Special Permit has been granted, but has been discontinued for a period of at least one year, shall not be re-established without receipt of a new Special Permit approval from the Town Board.

Section 443. Planned Unit Development

443.1 Purpose

The purpose of a Planned Unit Development District is to introduce a degree of flexibility in conventional land use and design regulations which will encourage imaginative and innovative developments which will insure efficient investment in public improvements, a more suitable environment, and protection of community interests in accordance with the Comprehensive Plan. The Planned Unit Development District is intended to encourage innovation in residential, nonresidential, and combined-use development so that the demand for residential and nonresidential structures of many different types and prices can be met.

It is recognized that certain types of nonresidential activities in otherwise residential areas are beneficial if they observe certain performance and design conditions. The Planned Unit Development District is to be used to enable developments to occur that may not be permitted on a lot by lot basis by the basic Zoning District regulations in Sections 342-349. Where the Planned Unit Development concept is appropriate and the land is rezoned to a Planned Unit Development District, the regulations set forth in the basic Zoning District regulations are replaced with regulations adopted specifically for the Planned Unit Development District under consideration.

443.2 Specific Objectives

The objectives of the Planned Unit Development procedure are to achieve, wherever practical, the following:

- a. A maximum choice in the types of environment, occupancy, tenure (e.g., cooperatives, individual ownership, condominium, leasing), types of housing, and community facilities available to existing and potential Town residents at all economic levels,
- b. More usable open space and recreation areas,
- c. More convenience and flexibility in the location of any nonresidential structures,
- d. The preservation of trees, drainage ways, outstanding natural topography and geologic features, and prevention of soil erosion,
- e. A creative use of land and structures which will produce an orderly transition from intensive to less intensive use of land,
- f. An efficient use of land resulting in smaller networks of utilities and streets, and thereby, lower community costs,
- g. A development pattern in harmony with the long-range objectives of the Comprehensive Plan of the Town, and

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- h. A more desirable environment than would be possible through the strict application of other provisions of this Code.

443.3 General Considerations

- a. A Planned Unit Development District may be considered anywhere in the Town.
- b. Establishment of a Planned Unit Development district is an amendment to this Code and therefore must follow the procedures in Section 410, Amendments.
- c. The lot area shall not be less than 5 acres.
- d. The lot must have a minimum lot frontage of 300 feet.
- e. All residential structures and activities are permitted in a Planned Unit Development District, and any nonresidential structures and activities will be permitted if the developer can demonstrate that they will promote the long-range objectives of the Comprehensive Plan of the Town, will contribute to the quality of the proposed development of the area, and will lead to the direct or indirect enhancement of the surrounding neighborhood in terms of open space, vehicular and pedestrian traffic movement, community operative costs, landscaping, preservation of natural features, and an improved living environment.
- f. The Town Board, after its review of the Environmental Assessment Form, may require an Environmental Review in accordance with New York State Environmental Quality Review Act (SEQRA).
- g. A Planned Unit Development District designed predominantly for commercial or industrial activities shall be approved only on sites abutting State highways, except that sites not on State highways will be considered if the lot size is at least 25 acres.

443.4 Consultant Review.

The Town Board may consult with any local, County, State, Federal or private individual or agency in the course of its deliberations on any application. Any cost for consultant review may be charged to the applicant.

443.5 Referral to Tompkins County Planning Department

Referral to Tompkins County Planning Department shall be made in accordance with General Municipal Law, Section 239 (l, & m) No decision shall be made until a response has been received or a 30-day timeframe for commenting has expired as provided by General Municipal Law Section 239 (l & m).

443.6 State Environmental Quality Review

Whenever the review of the Environmental Assessment Form reveals that a Full

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Environmental Review is required in accordance with the New York State Environmental Quality Review Act (SEQRA), the Town Board shall attempt to integrate, as appropriate, Planned Unit Development review as required by this Section with the procedural requirements of SEQRA review.

In the event that the procedures are not integrated, the time period for holding a Public Hearing on the Planned Unit Development Application does not commence until a negative declaration has been adopted or a Draft Environmental Impact Statement accepted as being sufficient to commence the public comment period.

443.7 Reimbursable Costs

Costs incurred by the Town Board in connection with the review of a proposed Planned Unit Development Application shall be charged to the applicant. These costs shall include:

- a. The cost of advertising fees for Public Hearings.
- b. Costs incurred by the Town of Groton for engineering, planning, legal, and other necessary expenses for the purpose of reviewing any application.
- c. Costs incurred by the Town of Groton for the review and/or preparation of an Environmental Impact Statement if said Statement is necessary.

Such reimbursable costs shall be paid to the Town of Groton and considered a condition of approval.

443.8 Preliminary Proposal

An applicant for a Planned Unit Development District must submit a request to the Town Board in the form of a Preliminary Planned Unit Development proposal, which must include:

- a. A sketch development plan showing existing and proposed development and the approximate location of proposed facilities and activities, existing topographic characteristics, approximate location of streets and easements, and existing development immediately adjacent to the proposed Planned Unit Development District.
- b. A written explanation of the character and purpose of the Planned Unit Development District, including the type and density of any housing proposed, the water and sewage system proposed, a general statement of proposed financing, and the expected timetable for development.
- c. Completed and signed Part I section of the Short Environmental Assessment Form (SEAF) or the Long Environmental Assessment Form (LEAF), as determined by 6NYCRR Part 617

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- d. A request to rezone a specific site to a Planned Unit Development District in accordance with the procedures in Section 410, Amendments.
- e. A description of the site boundary suitable for inclusion on the Zoning Map.
- f. An outline of the contents of the Planned Unit Development regulations sought, covering as many as possible of the points in the basic Zoning District regulations in Sections 342-349.

The Town Board may direct the applicant to provide additional information and attend additional meetings to confer with the Town Board.

443.9 Preparation of Amendment for Planned Unit Development District

The Town Board takes under advisement the materials and information presented in the applicant's preliminary proposal. If the Town Board chooses to act on the application and proceed with a rezoning to a Planned Unit Development District, an amendment to this Code is prepared, including an amendment to the Zoning Map, and regulations governing the proposed Planned Unit Development District. Those amendments are to be inserted following Section 349 as Sections 350.

The regulations shall, as a minimum, cover the following points, which are the same as addressed in the basic district regulations, Sections 342-359.

- a. Activities to be allowed: mix, magnitude, and location,
- b. Minimum lot area and frontage (if the Planned Unit Development District is to be divided into separate ownership parcels),
- c. Minimum yard depth, including space between structures, and
- d. Maximum structure dimensions, including height.

In addition, the regulations for the Planned Unit Development District should include all those items in Article 3 of this Code that are pertinent. The Town Board may also include provisions which are not found elsewhere in this Code but which are legitimate exercises of their zoning power.

443.10 Planned Unit Development Amendment Procedure

An amendment to this Code to provide for a Planned Unit Development District is subject to the same procedural requirements as any other amendment, including a Public Hearing. The amendment procedure is found in Section 410.

443.11 Site Plan Review of Newly Established Planned Unit Development

In amending this Code to establish a new Planned Unit Development District, the Town Board also directs the Planning Board to conduct a Site Plan Review of the Planned Unit

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Development in accordance with the procedure in Section 441, Site Plan Review and Approval, thereby ensuring that the Planned Unit Development District is developed in accordance with the applicable regulations.

443.12 Performance Guarantee.

The Planning Board shall require a Performance Guarantee pursuant to Section 441.13 of this Code.

443.13 Review

If within one year after approval of the Final Detailed Site Plan by the Planning Board, no progress is being made on the Planned Unit Development by the developer, the Town Board may choose to consider amending this Code to delete the Planned Unit Development District or to meet with the developer to negotiate a new timeline.

443.14 Revisions of Final Site Plan for Subdivided Planned Unit Development

All sections of a subdivided Planned Unit Development District are to be controlled by the Final Detailed Site Plan. The provisions governing amendments to the Final Detailed Site Plan apply even though subdivision has occurred. The owners or lessees of a subdivided Planned Unit Development District may jointly or separately make application under these regulations for an amendment to the Final Detailed Site Plan.