

LOCAL LAW NO. 2-1977
CHAUTAUQUA COUNTY

A Local Law of the County of Chautauqua Pursuant to Article 8 of the Environmental
Conservation Law of the State of New York Providing for Environmental Quality Review of
Actions which May Have a Significant Effect on the Environment

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York as follows:

1. (a) Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this local law shall have the same meaning as those defined in section 8-0105 of the environmental conservation law and Part 617 of Title 6 NYCRR.

(b) "County", shall mean the County of Chautauqua.

2. No decision to carryout or approve an action other than an action listed in section 3 (b) hereof or section 617.12 of 5 NYCRR as Type II action, shall be made by the County Legislature or by any department, board, commission, officer or employee of the County until there has been full compliance with all requirements of this local law and Part 617 of Title 6 NYCRR, provided however, that nothing herein shall be construed as prohibiting.

(a) the conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processing necessary to the formulation of a proposal for action which do not commit the County to approve, commence, or engage in such action, or

(b) the granting of a partial approval of any part o an application, if such partial approval relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this local law and part 617 of Title 6 NYCRR have been fulfilled.

3. (a) Consistent with Part 617 of Title 6 NYCRR and the criteria contained therein, the Department f Planning and Development may, upon clear and convincing evidence, in addition to those actions specified in section 617.12 of Title 6 NYCRR as Type I actions, determine that certain actions are likely to have a significant effect on the environment and may thereupon classify such actions as Type I actions.

(b) Consistent with Part 617 of Title 6 NYCRR and Criteria contained therein, the Department of Planning and Development may, upon clear an convincing evidence in addition to those actions specified in section 617.12 of Title 6 NYCRR as Type II actions, determine that certain actions are deemed not to have a significant effect on the environment and may thereupon classify such actions as Type II actions.

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

the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by the Department of Planning and Development, and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches, and maps, if any, together with any other relevant explanatory material required by the Department of Planning and Development.

5. Upon receipt of a complete application and a statement, the Department of Planning and Development shall cause a notice thereof to be posted on the signboard, if any, of the County maintained by the County and may also cause such notice to be published in the official newspapers of the County, describing the nature of the proposed action and stating that written views thereon of any person shall be reviewed by the Department of Planning and Development no later than a date specified in such notice.

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

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

7. Every application for determination under this local law shall be accompanied by a reasonable fee to defray the expense incurred in rendering such determination. Such fee shall be based upon actual administrative costs incurred in rendering such determination, but in no event shall such fee exceed an amount now or hereafter established by Par 617 of 6 NYCRR or any section thereof.

8. If the Department of Planning and Development determines that the proposed action is not an exempt action, not an action listed in section 3 (b) hereof or section 617.12 of Title 6 of 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the Department of Planning and Development shall prepare, file and circulate such determination as provided in section 617.7 (b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this local law. If the Department of Planning and Development determines that the proposed action may have a significant effect on the environment, the Department of Planning and Development shall prepare, file and circulate such determination as provided in 617.7 (b) of Title 6 NYCRR and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this local law and Part 617 of Title 6 NYCRR.

9. Following a determination that a proposed action may have a significant effect on the environment, the Department of Planning and Development shall, in accordance with the provisions of Part 617 or Title 6 NYCRR:

(a) in the case of an action involving an applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement or

(b) in the case of an action not involving an applicant, shall prepare a draft environmental impact statement.

If the applicant decides not to submit an environmental impact report, the Department of Planning and Development shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion notify the applicant that the processing of the application will cease and that no approval will be issued. The Department of Planning and Development may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be determined as follows:

(1) Where an action subject to this local law involved an applicant, the Department of Planning and Development may charge a fee not to exceed one half of one percent (.05%) of the action's total cost to the applicant in order to recover the cost of preparing and reviewing environmental impact statements.

(2) The technical services of the Department of Planning and Development may be made available on a fee basis reflecting the costs thereof to other agencies, and the fee charged to any applicant pursuant to subdivision (a) of this section may reflect such costs.

(3) Any such fees shall be computed and charged in accordance with the regulations adopted, after public hearing, by the Department of Planning and Development pursuant to Section 617.10 of 6 NYCRR.

10. Upon completion of a draft environmental impact statement prepared by or at the request of the County, a Notice of Completion containing the information specified in Section 617.7 (d) of Title 6 NYCRR shall be prepared, filed and circulated as provided in section 617.7 (e) and (f) of Title 6 NYCRR. In addition, it shall be published once in the official newspapers, if any, of the County, and a copy thereof shall also be posted on a signboard of the County. Copies of the draft environmental impact statement and the Notice of Completion shall be filed, sent and made available as provided in Section 617.7 (e) and (f) of Title 6 NYCRR.

If the Department of Planning and Development determines to hold a public hearing on a draft environmental impact statement, notices thereof shall be filed, circulated and sent in the same manner as the Notice of Completion and shall be published in the official newspaper of the County at least ten (10) days prior to such public hearing. Such notices shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received. The hearing shall commence no less than 15 calendar days nor more than 60 calendar days of the filing of the draft environmental impact statement, except as otherwise provided where the Department of Planning and

Development determines that additional time is necessary for the public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under applicable law.

11. If, on the basis of a draft environmental impact statement or a public hearing thereon the Department of Planning and Development determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this local law.

12. Except as otherwise provided herein, the Department of Planning and Development shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 or Title 6 NYCRR, provided further that if the action involves an application, the Department of Planning and Development may direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs, provided however, the Department of Planning and Development may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in this section to defray the expenses of the County in preparing and/or evaluating same. The fee shall be determined as follows:

(a) Where an action subject to this local law involves an applicant, the Department of Planning and Development may charge a fee not to exceed one half of one percent (.05%) of the action's total cost to the applicant in order to recover the costs of preparing and reviewing environmental impact statements.

(b) The technical services of the Department of Planning and Development may be made available on a fee basis reflecting the costs thereof to other agencies, and the fee charged to any applicant pursuant to subdivision (a) of this section may reflect such costs.

(c) Any such fees shall be computed and charged in accordance with the regulations adopted, after public hearing, by the Department of Planning and Development pursuant to Section 617.10 of 6 NYCRR.

13. A Notice of Completion of a final environmental impact statement shall be prepared, filed, and sent in the same manner as provided in section 10 herein and shall be sent to all persons to whom the Notice of Completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

14. No decision to carry out or approve an action which has been the subject of a final environmental impact statement by the Department of Planning and Development or by any other agency shall be made until after the filing and consideration of the final environmental impact statement where the Department of Planning and Development has been the lead agency for an action, it shall make a decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

15. When a Department of Planning and Development decides to carry out or approve an action which may have a significant effect on the environment it shall make the following findings in a written determination.

(a) consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and

(b) all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

16. For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

17. The County shall maintain files open for public inspection of all Notice of Completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the Department of Planning and Development.

18. Where more than one agency is involved in an action, the procedures of sections 617.4 and 617.8 of Part 617 of Title 6 NYCRR shall be followed.

19. Actions undertaken or approved prior to the dates specified in Article 8 of the environmental conservation law for local agencies shall be except from this local law and the provisions of Article 8 of the environmental conservation law and Part 617 of Title 6 NYCRR, provided, however, that if, after such dates the Department of Planning and Development modifies an action undertaken or approved prior to that date and the Department of Planning and Development determines that the modifications may have a significant adverse effect on the environment, such modification shall be an action subject to his local law and Part 617 of Title 6 NYCRR.

20. This local law shall take effect immediately upon filing with the Secretary of State.

Adopted by Legislature: 4/27/77

R/C Vote: 20 Yes; 3 No; 2 Absent
(No's: Bolivard, Lepkowski, Nelson)

Approved by County Executive: 5/9/77

Adopted as Local Law 2-77