

LOCAL LAW NO. 1 OF THE YEAR 2017

OF THE TOWN OF YORK

A local law to amend and supersede as applicable the zoning map of the Town of York, Livingston County, New York, as officially adopted to create a Wind Overlay Zone pursuant to Article VI of the Zoning Ordinance of the Town of York.

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE AND SCOPE.

This local law shall be known as *A local law to amend and supersede as applicable the zoning map of the Town of York as officially adopted to create a Wind Overlay Zone pursuant to Article VI of the Zoning Ordinance of the Town of York.*

SECTION 2. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of York, and to implement the provisions of the Comprehensive Plan of the Town of York. This Local Law regulates the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of York.

B. To these ends, this local law and the zoning map that it amends and supersedes as applicable is designed to:

1. Balance various forms of development that are desirable by the public while protecting the rural character of the Town;
2. Protect and encourage farming and agriculture and related businesses, which are the dominant land uses in York;
3. Protect property values by regulating uses, buildings and structures that may impact the character of the Town and affect neighboring properties; and
4. Minimize conflicts among the various land uses, both now and in the future.

SECTION 3. AMENDMENTS TO OFFICIAL ZONING MAP REFERENCED IN ARTICLE III. ZONING DISTRICTS.

Article III, section 301 provides that the Town of York shall from time to time amend its official Zoning Map, which said amendments shall be duly adopted by the Town Board and become a part of the Zoning Ordinance of the Town of York.

SECTION 4. FINDINGS.

A. The property for which a Wind Overlay Zone is being requested is known as Tax Identifier Map Parcel Number 40.-1-16.115, also known and identified as 2330 Cowan Road, Town of York, County of Livingston and State of New York.

B. The property for which a Wind Overlay District is being requested is located within an Agriculture District as per the zoning classification established by Article IV, Section 400 of the Zoning Ordinance of the Town of York.

C. A specific request for a special use permit has been received from the owner of the property known as Tax Identifier Map Parcel Number 40.-1-16.115, also known and identified as 2330 Cowan Road, Town of York, County of Livingston and State of New York, to place a Wind Energy Conversion System upon such property.

D. A request to create a Wind Overlay Zone has been received from the owner of the property known as Tax Identifier Map Parcel Number 40.-1-16.115, also known and identified as 2330 Cowan Road, Town of York, County of Livingston and State of New York.

SECTION 5. CREATION OF WIND OVERLAY ZONE PURSUANT TO ARTICLE VI. USE SPECIFIC REGULATIONS SECTION 617 E.

Pursuant to the authority granted to the Town Board under Article VI, Section 617 E, the official Zoning Map of the Town of York shall be amended as follows:

A. A Wind Overlay Zone is hereby created pursuant to Article VI, Section 617 E to encompass the entirety of the parcel known as Tax Identifier Map Parcel Number 40.-1-16.115, also known and identified as 2330 Cowan Road, Town of York, County of Livingston and State of New York.

B. Within the Wind Overlay Zone, all of the underlying land use district regulations shall remain in effect except as specifically modified by the provisions of Article VI, Section 617.

C. Any development of a Wind Energy Conversion System within the Wind Overlay Zone created hereby shall be required to have Site Plan Review and approval by the Planning Board (pursuant to Article VI, Section 617 D) and issuance of a special use permit prior to issuance of a building permit.

SECTION 6. INCORPORATION OF AMENDED OFFICIAL ZONING MAP INTO TOWN OF YORK ZONING ORDINANCE.

A. The Official Zoning Map of the Town of York as amended by this local law shall be incorporated into the Zoning Ordinance of the Town of York.

B. The Official Zoning Map of the Town of York as amended by this local law shall be on file in the Office of the Town Clerk.

SECTION 7. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

TOWN OF YORK LOCAL LAW NO. 2 of 2017

A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING LARGE SCALE SOLAR INSTALLATIONS WITHIN THE TOWN OF YORK

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE

This Local Law shall be known as the “Moratorium on and Prohibition of Large Scale Solar Installations within the Town of York.”

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of York under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supersede and suspend those provisions of the Zoning Ordinance of the Town of York and New York state law which require the Planning Board and/or the Town

Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large scale solar power installations (as herein later defined) within the Town of York for a period of up to twelve (12) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of large scale solar installations. The Town Board has formally requested the Building and Zoning Department and the Planning Board of the Town of York to identify and review local laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate large scale solar installations. The Town Board has directed the Town Attorney to assist in this endeavor.

The Town Board also recognizes the need to review and examine its existing ordinances, local laws and Zoning Ordinance provisions insofar as they may be affected by adoption of such local law(s) regulating the creation and/or siting of large scale solar power installations. It is deemed necessary to enact this moratorium in order to permit the Town adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium the Town of York shall work to prepare and eventually adopt new land use regulations to incorporate into the Town's existing Zoning Ordinance.

At this time, there are no pending applications for the location, development or site plan approval of a large scale solar installation.

During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape. At present, the Zoning Ordinance of the Town of York may not adequately regulate such land use. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Ordinance of the Town of York, thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Large Scale Solar Installation(s) - Any installation of solar panels, equipment and/or buildings or structures undertaken for commercial purposes with an intention of generating power from the sun and converting such power into electricity for resale to or by a third party (which does not include any individual or business that directs such produced energy back into the public grid primarily to off-set their own energy consumption). Large Scale Solar Installations specifically do not include any solar panel collection system or array undertaken by individual landowners, householders or farmers for their own personal use or the use of a business owned by them.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of York, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of York, for any Large Scale Solar Installation, as defined above.
- B. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no person, entity or business shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of York for any Large Scale Solar Installation, as defined above.
- C. The prohibitions set forth above in Clauses A. and B. of this Section 4. are not intended, and shall not be construed, to prevent or prohibit the use and development of solar panel arrays or collections systems for any personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not produce energy for the purpose of resale to or by any third party. The term “resale to or by any third party” as used immediately above shall not be construed to include any individual or business that directs such produced energy back into the public grid solely to off-set their own energy consumption.
- D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- E. This moratorium and prohibition shall apply to all real property within the Town of York, and all land use applications for the siting or creation of Large Scale Solar Installations within the Town of York.

- F. Under no circumstances shall the failure of the Town Board of the Town of York, the Zoning Board of Appeals of the Town of York, the Planning Board of the Town of York, or the Code Enforcement Officer for the Town of York to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or any other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer exclusive variance authority to the zoning board of appeals.

Following a request for hardship variance relief, a noticed public hearing shall be held, at which hearing the Town Board may consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
- B. The impact of the proposed application on the applicant's premises and upon the surrounding area.
- C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
- D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of York.
- E. The written opinion of the Town of York Planning Board and the Town of York Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F. Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the

property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

SECTION 6. PENALTIES.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 9. EFFECTIVE DATE.

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.

Supervisor
GERALD L. DEMING

Town Board
LYNN M. PARNELL
NORMAN R. GATES
AMOS N. SMITH
FRANK ROSE JR.

Highway Superintendent
GEORGE WORDEN JR.

Zoning/Code Enforcement
CARL A. PETER



Town Clerk/Tax Collector
CHRISTINE M. HARRIS

Town Justices
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TOWN OF YORK

SEWER USE LAW

Draft version was presented to the York Town Board on October 12, 2017 by Attorney James Campbell.

Public Hearing for proposed Local Law #3 of 2017 took place on Nov. 29, 2017, at 6:00 p.m.

ADOPTION OF LOCAL LAW #3 OF 2017: November 29, 2017.

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Article 1 - Short Title and Purpose

Section 101 - Short Title

For brevity and ease of communication, this Law may be cited as the Town of York Sewer Use Law.

Section 102 - General Purpose

The general purpose of this Law is the following:

To provide for efficient, economic, environmentally safe, and legal operation of the Town of York Publicly Owned Treatment Works (hereafter “POTW” and as subsequently defined herein).

Section 103 - Specific Purposes

The specific purposes of this Law are the following:

- (1) To prevent the introduction of substances into the POTW that will:
 1. interfere with the POTW in any way;
 2. pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation of the POTW's SPDES permit;
 3. increase the cost or otherwise hamper the disposal of POTW sludge and/or residuals,
 4. endanger municipal employees;
 5. cause air pollution, or groundwater pollution, directly or indirectly; and
 6. cause, directly or indirectly, any public nuisance condition.
- (2) To prevent new sources of infiltration and inflow and, as much as possible and eliminate existing sources of infiltration and inflow.
- (3) To assure that new sewers and connections are properly constructed.
- (4) To provide for equitable distribution amongst all users of the POTW of all costs, associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.

Section 104 - Replacement of Previous Sewer Use Law

The provisions in the existing Town of York Code entitled “*Local Law #1, 1973 Retsof Sewer District, Use of Public and Private Sewers and Drains*” and “*Local Law #2, 1983 Retsof Sewer District, Regulating Use of Public and Private Sewers and Drains*” are hereby repealed in their entirety and said provisions are wholly replaced by the herein set forth Articles 1 through 14 inclusive.

Article 2 - Definitions

Section 201 - Defined Terms

Unless otherwise stated in the section where the term is used in this Law, the meaning of terms used in this Law shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. Shall is mandatory; may is permissive.

Abnormal Sewage - Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See normal sewage.

Act or "THE ACT" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., as may be amended.

Administrator - The Regional Administrator of the U. S. Environmental Protection Agency (USEPA), Region 2.

Ammonia - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

Applicant - That person or legal entity who makes application for any permit. The applicant may be an owner, new or old, or his agent.

Approval Authority - The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

Approved Laboratory Procedure - The procedures defined as 'Standard Methods' in this article, or other procedures approved by the Superintendent, for flow measurement or determination of the concentration of pollutants or their surrogates in waters, wastewaters, and/or sludges.

ASTM, denoting American Society for Testing and Materials - The latest edition of any ASTM specification, when stipulated in this Law.

Authorized Representative of the Industrial User - An authorized representative of the industrial user may be:

- (a) An executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (b) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;

- (c) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD, denoting Biochemical Oxygen Demand - The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

Builder - Any person or legal entity who undertakes to construct a building or any part of a building, either under contract or for resale.

Building Drain - That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the building walls, and conveys it to the building lateral, which begins five (5) feet outside the inner face of the building wall.

Chlorine Demand - The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD, denoting Chemical Oxygen Demand - The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligrams per liter.

Color - The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Composite Sample - The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

Connection - Attachment of one user to a sewer. (See Extension)

Connection Charge (Tap Fee) - The one-time application fee (to be set from time to time by the York Town Board) to offset Town of York expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, street repair cost, and inspection costs. The fee may be scaled to the amount of work involved, or to the size of the public sewer involved.

Control Authority - The term shall refer to "Approval Authority", or to the superintendent when Town of York has an approved pretreatment program under the provisions of 40 CFR 403.11.

Control Manhole - A manhole accessible to the Control Authority in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

Conventional Pollutant - A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.

Cooling Water - The water discharged from any system of condensation, air conditioning, refrigeration, or other sources. It shall contain no polluting substances which would produce COD or suspended solids in excess of five (5) milligrams per liter, or toxic substances, as limited elsewhere in this Law.

County – Livingston County, New York, in which the Town of York is located.

Developer - Any person or legal entity who subdivides land for the purpose of constructing, or causing to be constructed, buildings for which wastewater disposal facilities are required.

Direct Discharge - The discharge of treated or untreated wastewater directly to the Waters of the State of New York. (For reference, see Indirect Discharge.)

Domestic Wastes - see Sewage, Domestic.

Dry Sewers - The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in the meantime, for transport of storm or sanitary sewage.

End of Pipe - For the purpose of determining compliance with limitations prescribed by Article 9, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

End of Pipe Concentration - The concentration of a substance in a sample of wastewater at the end of pipe.

End of Process Concentration - see National Categorical Pretreatment Standard.

Easement - An acquired legal right for the specific use of land owned by others.

EPA, USEPA, or U.S. Environmental Protection Agency - The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations. Also may be used as a designation for the Administrator or other duly authorized official of this Agency.

Extension - Attachment of a sewer line, with more than one user, to an existing sewer line.

Facility - All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

Floatable Oil - Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

Flow Rate - The quantity of liquid or waste that flows in a certain period of time.

Garbage - The solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, and sale of produce, and from the packaging and canning of food.

Grab Sample - A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

ICS Form - The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

Indirect Discharge - The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the State's Waters. (For reference, see Direct Discharge).

Industrial - Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

Industrial Chemical Survey (ICS) - The survey of industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries.

Industrial User - See User, Industrial.

Industrial Wastes - The liquid or liquid-carried solid, liquid and/or gaseous wastes from industrial manufacturing processes, trade, service, utility, or business, as distinct from sanitary sewage.

Infiltration - Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

Inflow - Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

Interference - A discharge which, alone or in conjunction with discharges by other sources:

- (a) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (b) therefore is a cause of a violation of any requirement of the Town of York POTW's SPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

- i. Section 405 of the Clean Water Act
- ii. the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act - RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA)
- iii. Clean Air Act
- iv. Toxic Substance Control Act
- v. Marine Protection Research and Sanctuaries Act.

Lateral, Building - The sewer extension from a building drain to a Street Lateral or other place of wastewater disposal.

Lateral, Street - The sewer extension from a public sewer to a property line.

National Categorical Pretreatment Standard, or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

National Pollutant Discharge Elimination System (NPDES) Permit - A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

National Prohibitive Discharge Standard, or Prohibitive Discharge Standard - Any regulation developed under the authority of Section 307 (B) of the Act, and 40 CFR, Section 403.5.

Natural Outlet - Any outlet, including storm sewers and combined sewer overflows, to State's Waters.

New Owner - That individual or entity who acquired legal title to property within the Service Area of the Town of York after the effective date of this law.

New Source - Any source, the construction of which is commenced after the publication of the proposed regulation prescribing a Section 307 (C) (33 U.S.C 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated.

New User - A discharger to the POTW who commences discharge after the effective date of this Law.

Normal Sewage - see Sewage, Normal.

Nuisance - The use or lack of use of the POTW in such a manner so as to endanger life or health, give offense to the senses, or obstruct or otherwise interfere with the reasonable use or maintenance of the POTW.

Oil and Grease - The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil, in a sample, expressed in milligrams per liter.

Old Owner - That individual or entity who owns or owned a property, within the Service Area of the POTW, acquired prior to the effective date of this Law, who or inherited the property at any time and intends to sell the property, or has transferred the property to a new owner, also the agent of the old owner.

Other Wastes - Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

Pass Through - The discharge which exits the Town of York POTW into waters of the State in quantities, which, alone or in conjunction with Discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

Permit - A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Law.

Person - Any individual, public or private corporation, political subdivision, Federal, State, or local agency or entity, association, trust, estate or any other legal entity whatsoever.

pH - The logarithm (base 10) of the reciprocal of the weight of hydrogenions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality. Values above 7.0 represent alkaline conditions. Values below 7.0 represent acid conditions.

Phosphorus, total - See total phosphorus.

Pollutant - Any material placed into or onto the State's waters, lands and/or airs, which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

Pollution - The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the State's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

Pretreatment (Treatment) - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR, Section 403.6 (D).

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment Standard or National Pretreatment Standard - Any Categorical Standard or Prohibitive Discharge Standard.

Priority Pollutants - The most recently revised or updated list, developed by the EPA, in accordance with the Act.

Prohibitive Discharge Standard - see National Prohibitive Discharge Standard.

Properly Shredded Garbage - The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and with no particle having a dimension greater than one-half (1/2) inch in any dimension.

POTW Treatment Plant - That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals derived from such treatment.

Publicly Owned Treatment Works (POTW) - A treatment works, as defined by Section 212 of the Act, (33 U.S.C 1292), which is owned, in this instance, by Town of York. This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

Receiving Waters - A natural water course or body of water (usually Waters of the State) into which treated or untreated sewage is discharged.

Records - Shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For the purposes of this law, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

Roof Drain - A drain installed to receive water collecting on the surface of a roof for disposal.

RCRA – Resource Conservation and Recovery Act of the Environmental Protection Agency.

Septage - All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries. Also sludge from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

Septic Tank - A private domestic sewage treatment system consisting of an underground tank (with suitable baffling), constructed in accordance with any and/or all local and State requirements.

Service Area of the POTW - The legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the Town of York Board.

Sewage - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such ground, surface, and storm water as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage", within the meaning of this definition.

Sewage, Domestic (Domestic Wastes) - Liquid wastes from the non-commercial preparation, cooking, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. Therefore, domestic sewage includes both black water and grey water. (See Sewage, Sanitary.)

Sewage, Normal - Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- B.O.D. (Five Day) - 2090 lbs. per million gallons (250 milligrams per liter), or less.
- Suspended Solids - 2500 lbs. per million gallons (300 milligrams per liter), or less.
- Phosphorus - 125 lbs. per million gallons (15 milligrams per liter), or less
- Ammonia - 250 lbs. per million gallons (30 milligrams per liter), or less.
- Total Kjeldahl Nitrogen - 417 lbs. per million (50 milligrams per liter), or less.
- Chlorine Demand - 209 lbs. per million gallons (25 milligrams per liter), or less.
- Chemical Oxygen Demand - 2920 lbs. per million gallons (350 milligrams per liter), or less.
- Oil and Grease - 100 milligrams per liter, or less

In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

Sewage, Sanitary - Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, industrial, and other wastes. (See Domestic Wastes.)

Sewage Treatment Plant (Water Pollution Control Plant) - see POTW Treatment Plant.

Sewage, Unusual Strength or Character - Sewage which has characteristics greater than those of Normal Sewage and /or which contains Substances of Concern.

Sewer - A pipe or conduit for carrying or transporting sewage.

Sewer, Combined - A sewer designed to receive and transport both surface runoff and sewage.

Sewer, Public - A sewer in which all abutting property owners have equal rights, and the use of which is controlled by the Town of York.

Sewer, Sanitary - A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

Sewer, Storm (Storm Drain) - A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

Sewerage System (also POTW) - All facilities for collecting, regulating, pumping, and transporting wastewater to and away from the POTW treatment plant.

Sewerage Surcharge - The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage. (See Volume Charge.)

Significant Industrial User - see User, Significant Industrial.

Significant Non-Compliance (SNC) - A User is in significant non-compliance if its violation(s) meet(s) one or more of the following criteria:

- Chronic violations of wastewater discharge limits, defined here as those, in sixty-six (66) percent or more of all of the measurements taken during a six-month period, which exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter;
- Technical Review Criteria (TRC) violations, defined here as those, in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period, which equal or exceed the product of the daily maximum limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; TRC = 1.2 for all other pollutants);
 - Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
 - Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Superintendent's exercise of its emergency authority under Article 11 of this Law;
 - Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- Failure to report accurately any non-compliance;
- Any other violation which the Superintendent determines will adversely affect the implementation or operation of the local pretreatment program.

Slug - A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, that exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal user operations, shall constitute a slug.

Standard Industrial Classification (SIC) - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

Standard Methods - Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304 (G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.), any other procedure approved by the Administrator, or any other procedure approved by the Superintendent, whichever is the most conservative.

State - State of New York.

State's Waters - See Waters of the State.

Storm Water - Any flow occurring during or following any form of natural precipitation; also the flow resulting therefrom.

Substances of Concern - Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

Sump Pump - A mechanism used for removing water from a sump or wet well.

Superintendent - That individual appointed by the Town of York Town Board as the Superintendent of Water and Wastewater. Such an individual shall be qualified to oversee water treatment and distribution and POTW operations. This definition shall also include his authorized deputy, agent, or representative.

Suspended Solids - The result obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of, or are in suspension, or are settleable, and can be removed from the sample by filtration, expressed in milligrams per liter.

Total Kjeldahl Nitrogen (TKN) - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

Total Phosphorus - The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate, in a sample of wastewater, following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

Town - The Town of York.

Toxic Substances - Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307 (A), or other Acts.

User - Any Person who contributes, causes, or permits the contribution of wastewater into the POTW.

User, Existing - A discharger to the POTW who is discharging on or before the effective date of this Law.

User, Industrial - A discharger to the POTW who discharges non-domestic wastewaters.

User, New - A discharger to the POTW who initiates discharge after the effective date of this Law.

User, Significant Industrial (SIU) - An industrial user of the Town of York POTW who is:

- Subject to National Categorical Pretreatment Standards promulgated by the EPA,
- Having substantial impact, either singly or in combination with other industries, on the operation of the treatment works,
- Using, on an annual basis, more than 10,000 lbs or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these pollutants to the sewer system,
- Discharging more than five percent (5%) of the flow or load of conventional pollutants received by the POTW treatment plant.

Note, a user discharging a measurable quantity of a pollutant may be classified as non-significant if, at the influent to the POTW treatment plant, the pollutant is not detectable.

Volume Charge (User Charge) - The demand sewer use charge which is based, in part or wholly, on the volume of normal sewage discharged into the POTW (there may be surcharges, as provided for in Article 12). The volume charge shall be based on a specific cost per 100 cubic feet or per 1,000 gallons. The specific charge shall be subject to approval by the Town of York Board and may be changed from time to time. The moneys so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness, and for funding of capital

projects, of the POTW. The basis of volume charge calculations shall be made available to the public, on demand, as provided in Article 13. The volume charge shall be recalculated annually, as well as the surcharge rates.

Wastewater - The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater Discharge Permit - A permit as set forth in Article 10 of this Law.

Wastewater, Unusual Strength or Character - see Sewage, Unusual Strength or Character.

Waters of the State (State's Waters) - All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Section 202 - Abbreviations

The following abbreviations shall have the designated meanings:

ANSI	American National Standards Institute
ASTM	American Society for Testing and Materials
AWWA	American Water Works Association
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CPLR	Code of Public Law and Rules
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
L	Liter
Mg	Milligram
Mg/l	Milligrams per liter
NCPI	National Clay Pipe Institute
NPDES	National Pollutant Discharge Elimination System
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOT	New York State Department of Transportation
P	Total Phosphorus
PSI	Pounds per Square Inch
POTW	Publicly Owned Treatment Works
PPM	Parts per Million, weight basis
SIC	Standard Industrial Classification
SPDES	State Pollutant Discharge Elimination System
SWDA	Solid Waste Disposal Act, 42 U.S.C. 690 L, et seq.
U.S.C.	United State Code of Laws

USEPA United State Environmental Protection Agency
TSS Total Suspended Solids

Section 203 - Undefined Terms

Terms not defined in this article, or terms found to be ambiguous or improperly defined in this article, shall be defined by the Act, or Regulations, pursuant thereto.

Article 3 - Use of Public Sewers Required

Section 301 - Waste Disposal Unlawful

It shall be unlawful for any Person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property, within the Town of York or in any area under the jurisdiction of the said municipality, any human or animal excrement, Garbage, or objectionable waste. Also, no Person shall discharge domestic Sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground.

Section 302 - Connecting Private Sewage System to Storm Sewer Unlawful

No Person shall connect a private Sewage System so that Sewage flows into a storm sewer or into a drain intended exclusively for storm water.

Section 303 - Discharge of Sewage into Well Prohibited

No Person shall discharge Sewage into a well.

Section 304 - Wastewater Discharge Unlawful

It shall be unlawful to discharge to any natural outlet, within Town of York, or in any area under the jurisdiction of the said municipality, any Wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Law and after obtaining a SPDES Permit from the NYSDEC.

Section 305 - Building Permit Allowed Only When Approved Wastewater Disposal Available

No property owner, Builder, or Developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Law, is available. All housing construction or building development which takes place after this Law is enacted shall provide for an approved system of sanitary sewers.

Section 306 - Private Wastewater Disposal

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault or cesspool intended or used for disposal of Wastewater.

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated outside of a Sewer District in the Town of York, shall be permitted to install a private onsite Wastewater treatment system provided they obtain approval from the Livingston County Department of Health for systems less than 1,000 gallons per day and the NYSDEC for systems 1,000 gallons per day and larger.

Section 307 - Connection to Public Sewer Required

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within a Sewer District in the Town of York, is hereby required, at the owner's expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper Public Sewer, in accordance with the provisions of this law, within ninety (90) days after official notice to do so.

Section 308 - Limitation on Use of Public Sewers

The use of the Town of York Public Sewers shall be strictly limited and restricted, except as provided in Section 307, to receive and accept the discharge of Sewage and other wastes, including Industrial Wastes generated on or discharged from real property within the bounds of the Service Area of the POTW.

Section 309 - Wastewater from Outside the POTW Service Area – Inter-municipal Agreements

The Town of York Town Board, with the consent of the Superintendent, shall have the authority to enter into agreements to accept Sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

If the Person is a municipality, that municipality shall have enacted a Sewer Use Law as restrictive on the discharge of Sewage and other wastes as the restrictions contained in this Law.

If the Person is not a municipality, the acceptance shall be made only with the expressed written consent of the Superintendent (the issuance of a permit) setting forth the terms and conditions of such acceptance.

Section 310 - Moratorium

Upon the determination by the Superintendent, that:

- one or more segments of the POTW is exceeding its hydraulic capacity at any time
- any specific purpose of this Law is being violated,

The Town of York Board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by:

- construction of new facilities
- enlarging existing facilities
- correction of inflow and infiltration
- cleaning and repairing of existing facilities

Section 311 - Basis of Sewer Use Requirement

All requirements, directives, and orders calling for mandatory use of the Sewers, within the Service Area of the POTW, for the proper discharge of Sewage and other wastes, including

Industrial Wastes, shall be established and given by the Town of York Board, NYSDEC, USEPA, and/or other such State or Federal agencies, which have enforcement powers.

Article 4 - Private Wastewater Disposal

Section 401 - Public Sewer Unavailable - Private Wastewater Disposal Required

Where a public sewer is not available the building lateral shall be connected to a private wastewater treatment system complying with the provisions of the Rules and Regulations of the NYSDOH and/or the Livingston County Department of Health for systems less than 1,000 gallons per day, and the NYSDEC for systems 1,000 gallons per day and larger.

Section 402 - Connection of Two Buildings to the Same Septic Tank Prohibited

No two separate permanent buildings, where the intended use for either is for a distinct and separate business or a dwelling place for a private family or families, shall be connected to the same individual septic tank and tile absorption field.

Section 403 - Construction Permit Application

A completed application form, containing results of percolation tests, computations, and a plot plan, including the design and cross-section of the Wastewater disposal system, in relation to lot lines, adjacent and on-site well or water supply, and buildings, shall be submitted to the Town of York. A fee, established by Article 12, shall accompany the application. The Wastewater disposal system shall be designed by a professional engineer, licensed surveyor, or architect, and shall be in accordance with the NYSDOH - "Standards for Waste Treatment Works", or NYSDEC "Standards for Commercial and Institutional Facilities", as appropriate.

Section 404 - Construction Permit

A written construction permit shall be obtained from the Superintendent in coordination with the Town of York Code Enforcement Officer before construction commencement. The Superintendent, or his designated representative, shall be permitted to inspect the construction work at any stage, without prior notice.

Section 405 - Preventing Nuisances - Rehabilitation Required

When the liquid or liquid-borne effluent from a private Wastewater disposal system enters any watercourse, ditch, storm sewer, or water supply system, located in the Town of York, in such a manner, volume, and concentration so as to create a hazardous, offensive, or objectionable condition, in the opinion of the Superintendent, the Livingston County Health Department, or the NYSDEC, the owner of the premises upon which such Wastewater disposal system is located, upon receiving written notice from the Superintendent, to do so, shall, within ninety (90) days, after receipt of such notice, repair, rebuild, or relocate such Wastewater disposal system for the purpose of eliminating such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH and the Livingston County Health Department, at the owner's expense.

Section 406 - Sanitary Operation Required

The owner shall operate and maintain the private Wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

Section 407 - Septage Removal

Where a private Wastewater disposal system utilizes a septic tank, septage shall be removed from the septic tank by a licensed hauler of trucked and hauled wastes, at three year intervals or more frequently.

Section 408 - Direct Connection to New Public Sewers Required

At such time that a public sewer becomes available to a property and within ninety (90) days thereof, a direct connection shall be made to the public sewer, in compliance with this Law, and any cesspool, Septic Tank, and similar Wastewater disposal facilities shall be cleaned of septage by a licensed septage hauler and either filled with clean sand, bank-run gravel, or dirt, or removed and properly disposed. When the connection is made to the public sewer, the connection to the private Wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate. Alternatively, and with the written consent of the Superintendent, the Septic Tank effluent may be piped or pumped to the sewer; the owner shall provide an easement (at no cost) to the Septic Tank for septage removal, said easement to be in a form acceptable to the Town of York.

Section 409 - Additional Requirements

No statement in this Article shall be construed to prevent, or interfere with, any additional requirements that may be deemed necessary by the Superintendent, to protect public health and public welfare.

Article 5 - New Sewers or Sewer Extensions

Section 501 - Proper Design

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town of York shall be designed, by a professional licensed to practice sewer design in the State of New York, in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards"), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from the Superintendent, the Livingston County Health Department, and the NYSDEC before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area, to the extent practical.

If, however, there is inadequate capacity in any Sewer which would convey the Wastewater or if there is insufficient capacity in the POTW treatment plant to treat the wastewater properly, the application shall be denied. Sewer line and POTW treatment plant current use shall be defined as the present use and the unutilized use which has been committed, by resolution, to other users by the Town of York Board.

Section 502A - New Sewers Subject to Approval, Fees, Inspection, Testing, and Reporting

When a property owner, builder, or developer proposes to construct Sanitary Sewers or extensions to Sanitary Sewers in an area proposed for subdivision, the plans, specifications, and method of installation shall be subject to the approval of the Superintendent, and the Livingston County Health Department, in accordance with Section 501. Said property owner, builder, or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk Sewers, pumping stations, force mains, and all other Town of York expenses incidental thereto including but not limited to review by the town's engineer and legal counsel. Each street lateral shall be installed and inspected pursuant to Article 6, and inspection fees shall be paid by the applicant prior to initiating construction. Design and installation of Sewers shall be as specified in Section 503, and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the Sewer shall be subject to periodic inspection by the Superintendent, without prior notice. The Superintendent shall determine whether the work is proceeding in accordance with the approved plans and specifications, and whether the completed work will conform with the approved plans and specifications. The Sewer, as constructed, must pass the infiltration test (or the exfiltration test, with prior approval), required in Section 505, before any building lateral is connected thereto. The Superintendent shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required, may be established. No new Sanitary Sewers will be accepted by the Town of York Board until such construction inspections have been made so as to assure to the Town of York Board, compliance with this Law and any amendments or additions thereto. The Superintendent has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise

backfilled before they were inspected so as to permit inspection of the construction. The Superintendent shall report all findings of inspections and tests to the Town of York Board.

Section 502B - Plans, Specification, and Pipe Test Results

Required Plans, specifications, and methods of installation shall conform to the requirements of this Article. Components and materials of wastewater facilities not covered in this Law, such as pumping stations, lift stations, or force mains shall be designed in accordance with Section 501, and shall be clearly shown and detailed on the plans and specifications submitted for approval. Force main details are covered in Section 506. When requested, the applicant shall submit, to the Superintendent and to the Livingston County Health Department, all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

Section 503 A - Sewer Pipe

Sewer pipe material shall be:

- Polyvinyl Chloride (PVC) Pipe - Heavy Wall
 - Pipe shall be made from Class 12454-B materials or better in accordance with ANSI/ASTM Specification D-1784.
 - Pipe and accessories shall conform to the requirements of the following, with a minimum pipe stiffness of 46.
 - PSI at a maximum deflection of five percent (5%).
 - ANSI/ASTM D 3034 (4" - 15")
 - ASTM F 679 Type I (18" - 27")
- Other pipe materials
 - Use of other pipe materials require prior written approval of the Superintendent before being installed, which said approval may be withheld at the Superintendent's sole discretion.
 - the minimum internal pipe diameter shall be eight (8) inches for gravity sewers and one (1) inch for low pressure sewers.
 - Joints for the selected pipe shall be designed and manufactured such that "O" ring gaskets of the "snap-on" type are used.
 - Gaskets shall be continuous, solid, natural or synthetic rubber, and shall provide a positive compression seal in the assembled joint, such that the requirements of Section 505 are met.
 - Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.
 - Wye branch fittings, as approved by the Superintendent, shall be installed, for connection of street laterals, in accordance with Section 606.

Section 503 B - Safety and Load Factors

Selection of pipe class shall be predicated on the following criteria:

- Safety factor - 1.5
- Load factor - 1.7
- Weight of soil - 120 lbs/cu. ft.
- Wheel loading - 16,000 lbs.

Utilizing the foregoing information, design shall be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, latest edition, "Design and Construction of Sanitary and Storm Sewers", and the pipe shall have sufficient structural strength to support all loads to be placed on the pipe, with a safety factor as specified above.

PVC pipe shall not be encased in concrete due to their different coefficients of linear thermal expansion.

Section 503 C - Sewer Pipe Installation

- (1) Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.
- (2) The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts. Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.
- (3) The public shall be protected from personal and property damage as a result of the construction work.
- (4) Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.
- (5) Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control can be effected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding, and filtration of drainage.
- (6) The trench shall be excavated only wide enough for proper installation of the sewer pipe, manhole, and appurtenances. Allowances may be made for sheeting, de-watering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by

sawing or by other methods as approved by the Superintendent, before trench excavation is initiated.

- (7) Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted at the discretion of the Superintendent. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.
- (8) Open trenches shall be protected at all hours of the day with barricades, as required.
- (9) Trenches shall not be open for more than 30 feet in advance of pipe installation nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the Superintendent. When work is not in progress, including overnight, weekends, and holidays, the trench shall be backfilled to ground surface.
- (10) The trench shall be excavated approximately six (6) inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated to a maximum depth of 2-1/2 feet below the final pipe invert grade and replaced with select materials.
- (11) Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.
- (12) Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods.
- (13) No structure shall be undercut unless specifically approved by the Superintendent.
- (14) Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.
- (15) To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade, and left in the trench, during backfill operations.
- (16) The pipe barrel shall be supported, along its entire length, on a minimum of six (6) inches of crusher run max. 1/2 inch stone or concrete sand free of organic material. This foundation shall be firmly tamped in the excavation.
- (17) Bell holes shall be hand excavated, as appropriate.
- (18) Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.

- (19) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.
- (20) The grade and alignment shall be checked and made correct. The pipe shall be in straight alignment. Any negotiation of curves shall be at manholes, except when site conditions require alternative pipe laying procedures. These alternative procedures, including bending the pipe barrel, deflecting the joint, and using special fittings, shall require prior written approval of the plans and also written confirmation approval of need by the Superintendent after examination of the site conditions.
- (21) When a smaller Sewer joins a larger one the invert of the larger Sewer shall be lowered sufficiently to maintain the same hydraulic gradient. An approximate method which may be used for securing this result is to place the 0.8 depth of both sewers at the same elevation.
- (22) Crushed stone or concrete sand shall be placed over the laid pipe to a depth of at least six (6) inches. The embedment of thermoplastic pipe shall be in accordance with ASTM D2321 using class 1A or 1B backfill materials. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.
- (23) The migration of fines from surrounding backfill or native soils shall be restricted by gradation of embedment materials or by use of suitable filter fabric.
- (24) The remaining portion of the trench above the pipe embedment shall be backfilled in foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks, and other structures shall be to 95 % of the maximum moisture-density relationship, as determined by ASTM Specification D 698, Method D. Ice, snow, or frozen material shall not be used for backfill.

Section 503 D - Cleanout Installation

- (1) Cleanouts for low pressure Sewers shall be placed at intervals of approximately 400 to 500 feet, at major changes of direction, where one collection main joins another main and at the upstream end of each main branch.
- (2) The design of the cleanouts shall be as approved by the Superintendent.

Section 504 - Manholes and Manhole Installation

- (1) Design of all manholes shall be submitted to the Superintendent and shall receive approval prior to placement.
- (2) Manholes shall be placed where there is a change in slope or alignment, and at intervals not exceeding 400 linear feet except as authorized by the Superintendent.

- (3) Manhole bases shall be constructed or placed on a minimum of six (6) inches of crusher run max. 1/2 inch stone free of organic materials.
- (4) Manhole bases shall be constructed of 4,000 psi (28 day) concrete 8 inches thick, or shall be precast bases properly bedded in the excavation. Field constructed bases shall be monolithic, properly reinforced, and extend at least 6 inches beyond the outside walls of lower manhole sections. Precast manhole bases shall extend at least 6 inches beyond the outside walls of lower manhole sections.
- (5) Manholes shall be constructed using precast minimum 4 foot diameter concrete manhole barrel sections, and an eccentric top section, conforming to ASTM Specification C-478, with the following exceptions on wall thickness:

Manhole Diameter (Feet)	Wall Thickness (Inches)
4	5
5	6
6	7
6.5	7.5
7	8
8	9

All sections shall be cast solid, without lifting holes.

Flat top slabs shall be a minimum of 8 inches thick and shall be capable of supporting a H-20 loading.

- (6) All joints between sections shall be sealed with an "O" ring rubber gasket, meeting the same specifications as pipe joint gaskets, or butyl joint sealant completely filling the joint.
- (7) All joints shall be sealed against infiltration. All metal parts shall be thickly coated with bitumastic or elastomeric compound to prevent corrosion.
- (8) No steps or ladder rungs shall be installed in the inside or outside manhole walls at any time.
- (9) No holes shall be cut into the manhole sections closer than 6 inches from joint surfaces.
- (10) Manholes which extend above grade shall not have an eccentric top section. The top plate shall be large enough to accommodate the cover lifting device and the cover.
- (11) The elevation of the top section shall be such that the cover frame top elevation is 0.5 foot above the 100-year flood elevation (in a field), 0.5 foot above a lawn elevation, or at finished road or sidewalk grade.

- (12) When located in a travelled area (road or sidewalk), the manhole frame and cover shall be heavy duty cast iron. When located in a lawn or in a field, the manhole frame and cover may be light duty cast iron. The cover shall be 36 inches, minimum, in diameter. The minimum combined weight of the heavy duty frame and 36 inch cover shall be 735 +/- 5% lbs. The minimum combined weight of the light duty frame and 36 inch cover shall be 420 +/- 5% lbs. The mating surfaces shall be machined, and painted with tar pitch varnish. The cover shall not rock in the frame. Infiltration between the cover and frame shall be prevented by proper design and painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.
- (13) A drop of at least 0.1 foot shall be provided between incoming and outgoing sewers on all junction manholes and on manholes with bends greater than 45 degrees.
- (14) Inverts and shelves/benches shall be placed after testing the manholes and sewers.
- (15) Benches shall be level and slope to the flow channel at about 1 inch per foot.
- (16) The minimum depth of the flow channel shall be the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.
- (17) Manhole frames, installed at grade, shall be set in a full bed of mortar with no less than two nor more than four courses of brick underneath to allow for later elevation adjustment. In lieu of brick, grade rings may be used for elevation adjustment. Grade rings shall not exceed 6 inches in depth. The total number of grade rings shall not exceed 12 inches in height, however, in no event shall more than 3 grade rings be used.
- (18) Manholes which extend above grade, shall have the frames cast into the manhole top plate. The top plate shall be securely anchored to the manhole barrel, by a minimum of six 1/2 inch corrosion resistant anchor bolts, to prevent overturning when the cover is removed. The anchor bolts shall be electrically isolated from the manhole frame and cover.
- (19) Internal drop pipes and fittings shall be PVC plastic sewer pipe in compliance with ASTM D2241. Corrosion resistant anchors shall be used to attach the drop pipe to the inside surface of the manhole barrel.

Section 505 A - Infiltration/Exfiltration Testing

All Sanitary Sewers or extensions to Sanitary Sewers, including manholes, shall satisfy requirements of a final infiltration test before they will be approved and Wastewater flow permitted by the Town of York. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. An exfiltration test may be substituted for the infiltration test; the same rate shall not be exceeded. The exfiltration test shall be performed by the applicant, under the supervision of the Superintendent, who shall have the responsibility for making proper and accurate measurements required. The exfiltration test consists of filling the pipe with water to

provide a head of at least 5 feet above the top of the pipe or 5 feet above groundwater, whichever is higher, at the highest point under test, and then measuring the loss of water, from the pipe section under test, by the amount of water which must be added to maintain the original level. However, under no circumstances shall the head at the downstream manhole exceed ten (10) feet or fill to within six (6) inches of the top of the downstream manhole. Should this condition prevail, the testing methods in Sections 504 F and/or 504 G shall be utilized. In this test, the test section must remain filled with water for at least 24 hours prior to taking any measurements. Exfiltration shall be measured by the drop of water level in a standpipe with a closed bottom end, or in one of the sewer manholes serving the test section. When a standpipe and plug arrangement is used in the upper manhole in the test section, there shall be some positive method for releasing entrapped air prior to taking any measurements.

Section 505 B - Test Section

The test section shall be as ordered or as approved, but in no event longer than 1,000 feet. In the case of Sewers laid on steep grades, the test length may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the test section. For purposes of determining the leakage rate of the test section, manholes shall be considered as sections of 48-inch diameter pipe, 5 feet long. The maximum allowable leakage rate for such a section is 1.1 gallons per 24 hours. If leakage exceeds the allowable rate, then necessary repairs or replacements shall be made, and the section retested.

Section 505 C - Test Period

The test period, during which the test measurements are taken, shall not be less than two (2) hours.

Section 505 D - Pipe Lamping

Prior to testing, the section shall be lamped. Any length of pipe out of straight alignment shall be realigned.

Section 505 E - Deflection Testing

Also prior to testing, all plastic pipe, in the test section, shall be tested for deflection. Deflection testing shall involve the pulling of a rigid ball or mandrel, whose diameter is 95 percent of the pipe inside diameter, through the pipe. Any length of pipe with a deflection greater than 5 percent shall be replaced. The test section shall be flushed just prior to deflection testing. The test shall not be performed with a mechanical pulling device.

Section 505 F - Low Pressure Air Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), low pressure air testing may be employed. Low pressure air tests shall conform to ASTM Specification C 828. All sections to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. Air shall be added until the internal pressure of the test section is raised to approximately 4.0 PSIG. The air pressure test shall be based on the time, measured in seconds, for the air pressure to drop from 3.5 PSIG to 2.5 PSIG.

Acceptance is based on limits tabulated in the "Specification Time Required for a 1.0 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

Before pressure is applied to the line all connections shall be firmly plugged. Before the test period starts, the air shall be given sufficient time to cool to ambient temperature in the test section.

If the test section is below groundwater, the test pressure shall be increased by an amount sufficient to compensate for groundwater hydrostatic pressure, however, the test pressure shall not exceed 10 PSI, or a lower pressure as required by the Superintendent.

The pressure test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

Section 505 G - Vacuum Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), vacuum testing may be employed for testing of sewer lines and manholes. Sewer lines and manholes shall be tested separately. All sewer lines to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. The vacuum test shall be based on the time, measured in seconds, for the vacuum to decrease from 10 inches of mercury to 9 inches of mercury for manholes, and from 7 inches of mercury to 6 inches of mercury for sewers.

Acceptance of manholes is based on the following:

Manhole Depth	Manhole Diameter	Time to Drop 1-Inch Hg
10 ft or less	4 ft	120 seconds
10 ft to 15 ft	4 ft	150 seconds
15 ft to 25 ft	4 ft	180 seconds

For 5 ft diameter manholes, add 30 seconds to the times above.

For 6 ft diameter manholes, add 60 seconds to the times above.

If the test on the manhole fails (the time is less than that tabulated above), necessary repairs shall be made and the vacuum test repeated, until the manhole passes the test.

Acceptance of sewers (7" Hg to 6" Hg) is based on the time tabulated in the "Specification Time Required for a 0.5 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

The vacuum test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

Section 506A - Force Mains

Force mains serving Sewage lifting devices, such as grinder pumps and pump stations, shall be designed in accordance with Section 501. Additional design requirements are:

- (1) Force main pipe material shall be:
 - (a) Polyvinyl Chloride (PVC) Plastic Pipe

Pipe shall conform to ASTM D2241. Materials used in the manufacture of PVC pipe shall meet ASTM c1784. The minimum wall thickness shall be SDR-21. Fittings shall conform to ASTM D2241. Joints and gaskets shall conform to ASTM D2241, D1869, and F477.

- (b) Other pipe materials

Other pipe materials require prior written approval of the Superintendent before being installed.

- (2) Trenching, bedding, and backfilling shall be in accordance with Section 503 C.
- (3) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.
- (4) Anchorages, concrete blocking, and/or mechanical restraint shall be provided when there is a change of direction of 7-1/2 degrees or greater.
- (5) Drain valves shall be placed at low points.
- (6) Automatic air relief valves shall be placed at high points and at 400 ft intervals, on level force main runs.
- (7) Air relief and drain valves shall be suitably protected from freezing.
- (8) When the daily average design detention time, in the force main, exceeds 20 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting line are prevented. The corrosion is caused by sulfuric acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.
- (9) The force main shall terminate, in the receiving manhole, at a PVC plastic sewer pipe "T". The vertical arms of the "T" shall be twice the diameter of the force main. The upper arm shall be at least 4 feet long; the lower arm shall terminate in a PVC plastic sewer pipe 90 degree elbow in a flow channel directed to the manhole exit pipe. The "T" and its arms shall be securely fastened to the inside surface of the manhole wall using corrosion resistant anchors.

Section 506B - Force Main Testing

All force mains shall be subjected to hydrostatic pressure of 150 percent of the normal operating pressure. The duration of the test, at pressure, shall be at least 2 hours. Before conducting the test, the pipe shall be filled with water and all air shall be expelled. During the test, water shall be added, as needed, to maintain the test pressure. The amount of water added shall be recorded so as to calculate leakage. Leakage shall not exceed 25 gallons per day per mile per inch nominal pipe diameter. During the test, the owner and the Superintendent shall walk the route of the force main and examine the exposed pipe and the ground covering any backfilled pipe to discover leaks. Leakage in excess of that specified above shall be corrected with new material at the owner's expense and the test repeated. Any observed leaks shall be repaired at the owner's expense. Each test section length shall be as approved by the Superintendent, but in no event longer than one thousand (1,000) feet.

Section 507 - Final Acceptance and Warranty/Surety

All Sanitary Sewers and extensions to Sanitary Sewers constructed at the applicant's expense, after final approval and acceptance by the Superintendent, and concurrence by the Town of York Board, shall become the property of the Town of York, and shall thereafter be operated and maintained by the Town of York. No Sanitary Sewer shall be accepted by the Town of York until two (2) copies of as-built drawings have been so filed with the Superintendent and the Superintendent has approved the submitted drawings. Said Sewers, after their acceptance by the Town of York, shall be guaranteed against defects in materials or workmanship for one (1) year, by the applicant. The guarantee shall be in such form and contain such provision as deemed necessary by the Town of York Board, secured by a surety bond or such other security as the Town of York Board may approve.

Section 508 - Liability Insurance Coverage During Construction Period

- (1) All contractors engaged in connecting house laterals with Sanitary Sewers, who perform any work within the Right of Way of any highway, shall file a bond in the amount of Five Thousand Dollars (\$5,000.00) with the Town of York Clerk to indemnify the Town of York against loss, cost, damage or expense sustained or recovered on account of any negligence, omission or act of the applicant for such a permit, or any of his, or their agents arising or resulting directly or indirectly by reason of such permit or consent, or of any act, construction or excavation done, made or permitted under authority of such permit or consent. All bonds shall contain a clause that permits given by the Town of York (Board) may be revoked at any time for just cause.
- (2) Before commencing work, the above contractor shall file insurance certificates with the Town of York Clerk for the following:
 - (a) Workman's Compensation and Employer's Liability Insurance as required by the laws of the State covering the contractor;
 - (b) Personal Injury Liability having limits of not less than \$500,000 each occurrence and \$500,000 aggregate (completed operations/products, personal injury);

- (c) Property Damage Liability having limits of not less than \$500,000 for all damages arising during the life of the contract; and shall include, but not be limited to, the following designated hazards:
 - i. Premises and Operations;
 - ii. Independent Contractors;
 - iii. Completed operations and products;
 - iv. Property Damage; and
 - v. Explosions, collapse and underground;
 - (d) Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than:
 - i. Bodily injury - each person, \$300,000
each occurrence, \$500,000
 - ii. Property damage - each occurrence, \$500,000
 - (e) Business Excess Liability Insurance in the amount of \$2,000,000.
 - (f) All insurance policies must provide for five (5) business days notice to the Town of York before cancellation and must cover all liabilities of the Town of York and be in a form approved by the Town of York Board and be in a satisfactory form approved by the Board.
 - (g) The minimum insurance limits stated above shall be subject to periodic review by the Town of York Board and adjustments made, by resolution, as appropriate.
- (3) Where it is necessary to enter upon or excavate any highway or cut any pavement, sidewalk or curbing, permission must be obtained from the Superintendent of Highways if a Town of York Highway is involved, from the County Department of Public Works if a County Highway is involved, and/or the New York State Department of Transportation if a State Highway is involved.
- (4) The minimum insurance limits above shall be as established by the Town of York Board and shall be subject to periodic review and adjustment, as appropriate, by the Town of York Board, at its sole discretion.

Article 6 – Building Laterals, Street Laterals Connections, and Fees

Section 601 A - Permit Required for Sewer Connections

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public Sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Section 601 B - Inflow/Infiltration Prohibited

No person shall discharge or cause to be discharged any storm cooling water or unpolluted industrial waters to any Sanitary Sewer. Swimming pool drains shall not be connected to any sanitary sewer.

Section 602 - Sewer Lateral Permits

A permit application shall be submitted to the Town for any proposed connection to the public Sewer. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgement of the Superintendent. A fee (designated by the Town Board), for residential, commercial, institutional and industrial users, as established by the Town of York Board, shall accompany the application.

Connections to existing manholes shall be made as directed by the Superintendent.

Section 603 A - New Building Laterals

A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, the second building may use the front building's building lateral, if there is no other way to provide sanitary service to the back building and such lateral.

New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Superintendent has approved plans showing the relocation. If relocation is not physically possible then the lateral shall be:

- (1) exposed and totally encapsulated in not less than three inches of concrete, or
- (2) exposed and walled and the building rooms above positively ventilated outdoors.

All existing manholes in or under the basement shall be sealed air-tight in a manner acceptable to the Superintendent. No new manholes shall be constructed on the portion of the lateral under the building.

Section 603 B -Laterals Serving Several Buildings

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with the metered water use and with sound professional engineering judgement.

Section 603 C - Laterals Serving Complexes

Where a lateral Sewer is to serve a complex of industrial, commercial, institutional, or dwelling structures, special design of the building lateral system shall be required. Such lateral Sewer shall be connected to the Public Sewer through a manhole. The Superintendent shall determine if and where this connection to the Public Sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to Section 503 D and 1007 and the lateral connection made and tested as directed by the Superintendent. Plans and specifications shall be prepared and submitted for approval pursuant to this Law.

Section 603 D - Dry Sewers

Dry Sewers shall be designed and installed in accordance to this Law.

Section 604 - Using Existing Building Laterals

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this local Law.

Section 605 - Lateral Pipe Materials

Building and street lateral pipe materials shall be one of the following:

- (1) Polyvinyl chloride (PVC) pipe and fittings conforming to ASTM Specification D-3034-73, "SDR-35 Polyvinyl Chloride (PVC) Sewer Pipe and Fittings". All pipe shall be suitable for gravity sewer service. Provisions shall be made for contraction and expansion at each joint with a rubber ring. The bell shall consist of an integral wall section stiffened with two PVC retainer rings which securely lock the solid cross-section ring into position. Minimum "Pipe Stiffness" (F/Y) at five percent (5%) deflection shall be 46 PSI when tested in accordance with ASTM Specification D-2412.

The distance between consecutive joints, as measured along the centerline of the installed pipe, shall not be less than ten (10) feet, except under abnormal circumstances, in which case this dimension may be diminished, if approved by the Superintendent. The size and slope of building and street laterals shall be subject to approval by the Superintendent, but in no event shall the internal pipe diameter be less than 4 inches, nor shall the pipe slope be less than 1/4 inch per foot.

The street lateral shall include a full port curb stop with flow-through diameter equal to that of the lateral. A curb box shall be installed.

Section 606 A - Street Lateral to Public Sewer Connection

At the point of connection of a street lateral to a main Sewer, a standard wye fitting and sufficient one-eighth (45 degree) bend fittings shall be used. The wye fittings shall be installed so that flow in the "arm" shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the Public Sewer which permits the flow into the Public Sewer from the lateral to enter at right angles.

The inside diameter of the fittings shall be same diameter as the street lateral inside diameter.

Section 606 B - Future Connection Locations; As-Built Drawings

The street lateral, including the wye and eighth bend fittings, shall be connected to the main Sewer at the time of constructing the main Sewer, for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted a standard plug approved for use by the Superintendent. All Sewer connections shall be via a properly installed saddle on the main Sewer pipe. No portion of the lateral pipe shall protrude into the main Sewer pipe. The location of all lateral connections shall be field marked with a 2 inch by 6 inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two (2) feet above grade. The location of all lateral connections shall be indicated on a drawing with a minimum of three (3) tie lines indicated. Two (2) copies of this drawing, showing the as-built location of these connections, shall be furnished to the Superintendent. A refundable deposit shall be placed with Town of York to assure receipt of these as-builts. The deposit shall be placed when application is made; the amount of the deposit shall be \$100 per sheet of plans showing locations of lateral connections. No Sanitary Sewer shall be accepted for dedication by Town of York until four (4) copies of this record drawing have been so filed with the Superintendent and the Superintendent has approved the submitted drawings.

Section 606 C - Special Manhole Requirements

When any street lateral is to serve a school, hospital, or similar institution, or public housing, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Superintendent, will receive Wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the Public Sewer through a manhole. The Superintendent shall determine if and where this type of connection to the Public Sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the Public Sewer pursuant to Sections 504 and 1007, and the lateral connection made thereto as directed by the Superintendent.

Section 607 - Laterals At and Near Buildings

Building laterals laid parallel to a bearing wall shall not be installed closer than three (3) feet to such wall. The building lateral shall enter the basement through the basement wall no less than twelve (12) inches above the basement floor. In no event shall any building lateral be placed below the basement floor, except with the expressed written approval of the Superintendent.

The building lateral shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Changes of direction of 90 degrees or greater shall be made with a cleanout which extends to grade, terminating in a terminal box set in concrete. In building laterals, said cleanouts shall be provided such that the maximum distance between cleanouts is 75 feet. The ends of all building or street laterals, which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug, or by other approved means.

Section 608 - Sewage Lifting

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the Superintendent.

Section 609 - Lateral Pipe Installation

All excavations required for the installation of a building or street lateral shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfilling, regardless of pipe material used, shall be performed in general accordance with paragraphs 3 through 6 of ASTM Specification C-12, except that trench width, measured at the top of the installed pipe, shall not exceed the outside pipe diameter plus 14 inches and, except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but not in any case shall such depth be less than four (4) feet. Where it is physically impossible to provide cover of four (4) feet, the depth may be reduced to a minimum of two (2) feet and the pipe shall be insulated, as approved by the Superintendent.

Section 610 A - Watertight Joints

All joints and connections shall be made watertight.

Section 610 D - PVC Push Joints

Joints for PVC Sewer pipe shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto, and conforming to the applicable ASTM specification identified in Section 605.

Section 611 A - Building Lateral/Street Lateral Connection

- (1) The connection of the building lateral to an existing street lateral shall be made at the property line. Except as provided under Section 502, if a street lateral has not previously been provided, the street lateral will be constructed from the existing public sewer to the property line, by a licensed plumber, at the owner's expense. The street lateral shall be installed with a properly sealed and covered clean-out to grade located at the property line. The clean-out shall terminate in a metal box imbedded in concrete.
- (2) The cost of constructing the street lateral from the existing Public Sewer to the property line shall be at the property owner's expense; all subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.
- (3) The property owner shall indemnify the Town of York from any loss or damage that may directly or indirectly be occasioned by the installation of the building lateral.
- (4) It shall be the responsibility of the property owner to maintain, repair, or replace the building lateral, as needed.

- (5) The method of connection of the building lateral to the street lateral will be dependent upon the type of Sewer pipe material, and, in all cases, shall be approved by the Superintendent. After installation of the street lateral has been approved by the Superintendent, the new street lateral shall become the property of the Town of York. Any subsequent repairs to the new street laterals shall be made by the Town of York at the Town of York's expense.

Section 611 B - Cleanout Repair/Replacement

If, in the judgement of the Superintendent in his sole discretion, it is determined that a building lateral, without a property line clean-out, needs repair or replacement, the Town of York may install a clean-out at the property line, at the property owner's expense, such that the street lateral can be maintained independently of the building lateral. Said expense shall be reimbursed to the Town with Thirty (30) day of being invoiced. Unpaid charges may be added on to the Sewer bill for the subject property and relieved if not paid.

Section 611 C - Street Lateral Replacement; Ownership

Any existing street lateral which, upon examination by the Superintendent, is determined to be in need of replacement will be replaced with a new street lateral with a property line clean-out. The replacement street lateral shall be constructed by a licensed plumber. The cost of constructing the replacement street lateral and clean-out shall be at the property owner's expense. Once the replacement street lateral and clean-out have been constructed and approved by the Superintendent, the new street lateral shall become the property of the Town of York. Any repairs to new street laterals shall be made by the Town of York at the Town of York's expense.

Section 612 - Testing

The street lateral, building lateral, or the combined lateral shall be tested for infiltration /exfiltration by:

- (a) any full pipe method described in Section 505, or
- (b) by a suitable joint method, with the prior written approval of the Superintendent.

Section 613 A - Connection Inspection

The applicant for the building lateral permit shall notify the Superintendent when the building lateral is ready for inspection and connection is to be made to the street lateral. The connection shall be made under the supervision of the Superintendent.

The applicant for the street lateral permit shall notify the Superintendent when the street lateral is ready for inspection and connection is to be made to the main Sewer. The connection shall be made under the supervision of the Superintendent.

Section 613 B - Trench Inspections

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes, such trenches shall be inspected by the Superintendent. Before the trenches are backfilled, the person performing such work shall notify the Superintendent when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the Superintendent.

Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas

All excavations for constructing building laterals shall be adequately protected with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed, in the course of the work, shall be restored in a manner satisfactory to the Superintendent. When installation requires disturbance of paved public roads and shoulders, restoration shall involve backfilling to road grade, complete road and shoulder restoration to the Town of York Standards.

Section 615 - Interior Clean-Out

An interior clean-out fitting shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a 45-degree branch with removable plug or test tee, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral.

The cleanout diameter shall be no less than the building lateral diameter.

Section 616 - Costs Borne by Owner

All costs associated with the provisions of this Article shall be borne by the property owner unless specifically stated in writing or agreed in writing to be a cost borne by the Town of York. The property owner shall indemnify the Town of York from any loss or damage that may be directly or indirectly occasioned by the installation of the building and street laterals, and connections and appurtenances.

Article 7 – Inflow

Section 701 – New Inflow Sources Prohibited

No connections shall be made to a sanitary or to a combined Sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.

Section 702 - Existing Inflow Sources Disconnected

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgement of the Superintendent, sufficient natural drainage is available, connections which contribute inflow to the Sanitary Sewers must be disconnected in a fashion approved by the Superintendent, prior to the sale of the property.

Section 703 - Existing Inflow Sources Disconnected When Property Sold

Upon notice from the Tax Assessor, the Superintendent shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.

Section 704 - No Re-connection of Inflow Source Allowed

It shall be a willful violation of this Law for any person to reconnect any inflow source which has been disconnected pursuant to this Article.

Section 705 - Charges for Inflow

The Superintendent is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to Article 12, however, the Town of York Board may cause a surcharge at a rate not to exceed five (5) times that for normal sewage volume charge.

Article 8 – Trucked or Hauled Waste

Section 801- Licenses and Application

The discharge of trucked or hauled wastes into the Town of York Sewer System and Public Sewers tributary thereto will be permitted only with the written approval (license) of the Superintendent. Applicants for such license shall apply on a form provided by the Superintendent. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR Part 364, approximate annual septage volume expected, service area, and any other information that the Superintendent may require, to determine whether the trucked or hauled wastes could adversely impact the POTW. The application shall be accompanied by an application fee prescribed by the Superintendent, not to exceed \$100.

The licensee of trucked or hauled wastes will also be charged a fee for each dumping, in accordance with Article 12. The dumping fee shall be paid prior to dumping.

Section 802 – Concurrent Requirements

The applicant for a license to truck or haul wastes shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement, in any license application, shall be grounds for invalidating the license. All licenses, issued by the Superintendent, for this purpose, shall be for one (1) year. The licensee shall also be duly permitted by the NYSDEC under 6 NYCRR Part 364 ("364 permit"). If, for any reason, the 364 permit is revoked, the 364 permit lapses or becomes invalid, then the license issued under this Article shall become invalid immediately. All acts performed in connection with the license shall be subject to the inspection and regulations, as established by the Superintendent, the terms and conditions of the license and all local and general laws, ordinances, and regulations which are now or may come into effect, and such license may be suspended or revoked, at any time, by the Superintendent for willful, continued, or persistent violation thereof.

Section 803 – Dumping Location and Timing

The Superintendent may require discharging at only certain locations within the POTW, and only at certain times, and on only certain days of the week, or seasons of the year as shall be stated on said license or as may be relocated by the Superintendent, after appropriate notice. The time and conditions for permissible discharge shall be as set forth on the license, or as may be revised by the superintendent, after appropriate notice.

Section 804 - Notification of Dumping

Each discharge of trucked or hauled wastes shall be made only with the approval of the Superintendent. The Superintendent may require inspection, sampling, and analysis of each load prior to the discharge of a load. Any extra costs associated with such inspection, sampling, and analysis shall be paid by the licensee.

Article 9 – Discharge Restrictions

Section 901 - Pretreatment Standards

All users of the Town of York POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Parts 406 - 471.

Section 902 - General Prohibitions

No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or Wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State, or Local Pretreatment Standards or Requirements.

Without limiting the generality of the foregoing, a user may not contribute the following substances to the POTW:

- (1) Any solids, liquids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious, in any way, to the POTW, or to the operation of the POTW. At no time shall both of two successive readings on a flame type explosion hazard meter, at the point of discharge into the system (or at any other point in the system) be more than 25 % nor any single reading be more than 40 % of the lower explosive limit (LEL) of the meter. Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Town of York, the State, or the EPA has determined to be a fire hazard, or hazard to the POTW.
- (2) Solid or viscous substances which may cause obstruction to the flow in a Sewer or otherwise interfere with the operation of the Wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass or stone grinding or polishing wastes.
- (3) Any Wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was specifically designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or POTW personnel.
- (4) Any Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any Wastewater

treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard.

A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(A) of the Act.

- (5) Any noxious or malodorous solids, liquids, or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.
- (6) Oils and grease - Any commercial, institutional, or industrial wastes containing fats, waxes, grease, or oils which become visible solids when the wastes are cooled to ten (10) degrees centigrade (50 degrees fahrenheit); any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in excess of 100 mg/l or in amounts that will cause interference or pass through.
- (7) Any Wastewater which will cause interference or pass through.
- (8) Any Wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes, and vegetable tanning solutions.
- (9) Any solid, liquid, vapor, or gas having a temperature higher than 65 degrees C (150 degrees F); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40 degrees C (104 degrees F). The Superintendent reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 65 degrees C.
- (10) Unusual flow rate or concentration of wastes, constituting Slugs, except by Industrial Wastewater Permit.
- (11) Any Wastewater containing any radioactive wastes except as approved by the Superintendent, and in compliance with applicable State and Federal regulations.
- (12) Any Wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.
- (13) Any Wastewater with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21.
- (14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

Section 903 - Concentration Based Limitations

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or

an instantaneous basis, except by permit or as provided for in Section 904. Concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW ("end of pipe" concentrations).

Effluent Concentration Limit - mg/l

Substance (1)	Allowable Average Daily (2)	Allowable Maximum Instantaneous (3)
Aluminum	0.20	0.20
Antimony	0.006	0.006
Arsenic	0.065	0.065
Barium	4.08	4.08
Beryllium	0.10	0.10
Cadmium	0.070	0.070
Chlorides	96.6	96.6
Chromium (hex)	0.01	0.01
Chromium (tot)	0.01	0.01
Cobalt	0.013	0.013
Copper	0.109	0.109
Cyanide (complex)	0.247	0.247
Cyanide (free)	0.247	0.247
Fluorides	4.37	4.37
Gold	None	None
Iodine	10	10
Iron	0.989	0.989
Lead	0.116	0.116
Manganese	0.462	0.462
Mercury	0.0005	0.0005
Molybdenum	0.010	0.010
Nickel	0.104	0.104
Phenols, total	0.016	0.016
Selenium	0.023	0.023
Silver	0.133	0.133
Sulfates	None	None
Sulfides	25	25
Tin	None	None
Titanium	None	None
Vanadium	0.039	0.039
Zinc	0.212	0.212

- (1) Except for chromium (hex), all concentrations listed for metallic substances shall be as "total metal", which shall be defined as the value measured in a sample acidified to a pH value of 2 or less, without prior filtration.

- (2) As determined on a composite sample taken from the User's daily discharge over a typical operational and/or production day.
- (3) As determined on a grab sample taken from the User's discharge at any time during the daily operational and/or production period.
- (4) Other substances which may be limited are:
 - alkanes, alkenes and alkynes
 - aliphatic and aromatic alcohols and acids
 - aliphatic and aromatic aldehydes and ketones
 - aliphatic and aromatic esters
 - aliphatic and aromatic halogenated compounds
 - aliphatic and aromatic nitro, cyano and amino compounds
 - antibiotics
 - benzene derivatives
 - chemical compounds which, upon acidification, alkalization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW, produce toxic, flammable, or explosive compounds
 - pesticides, including algicides, fungicides, herbicides, insecticides, rodenticides
phthalates
 - polyaromatic and polynuclear hydrocarbons
 - total toxic organics, TTO, as defined in 40 CFR 433.11
 - toxic organic compounds regulated by Federal Pretreatment Standards
 - unsaturated aliphatics, including those with an aldehyde, ketone or nitrile functional group
 - viable pathogenic organisms from industrial processes or hospital procedures

Section 904 - Mass Discharge Based Limitations

The Superintendent, in consultation with the Town Engineer, may impose mass discharge based limits on individual Users for specific pollutants. Mass discharge-based limits may be imposed for pollutants that may have negative impact on the employees, the POTW or the receiving water. The Superintendent shall issue permits to Significant Industrial Users and may issue permits to other Industrial Commercial Users limiting the discharge of these substances. Each permit shall restrict the discharge from each Significant Industrial User to a portion of the total allowable influent loading.

Permits issued in accordance with this section may allow for discharges in excess of concentration limitations set forth in this Sewer Use Law, if the concentrations and mass discharges do not interfere with the operation and performance of the POTW as recommended by the Superintendent.

Section 905 - Modification of Limitations

Limitations on Wastewater strength or mass discharge contained in this Law may be supplemented with more stringent limitations when, in the opinion of the Superintendent:

- (1) The limitations in this Law are not sufficient to protect the POTW,
- (2) The limitations in this Law are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permit,
- (3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Town of York desires, as a result of discharge of wastewaters at the above prescribed concentration limitations,
- (4) Municipal employees or the public will be endangered, or
- (5) Air pollution and/or groundwater pollution will be caused.

The limitations on Wastewater strength or mass discharge shall be recalculated not less frequently than once every five (5) years. The results of these calculations shall be reported to the Town of York Board. This Law shall then be amended appropriately. Any issued industrial wastewater discharge permits, which have limitations, based directly on any limitations, which were changed, shall be revised and amended, as appropriate.

Section 906 - Access to User's Records

The Superintendent shall have the authority to copy any record related to wastewater discharges to the POTW.

Section 907 – Dilution

Except where expressly authorized to do so by an applicable Pretreatment Standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard.

Dilution flow shall be considered to be inflow.

Section 908 - Grease, Oil, and Sand Interceptors

Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Superintendent, they are necessary for the proper handling of Wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

Section 909 - Solid Waste Grinders

Solid waste grinders at or serving commercial establishments, institutions or industries shall not discharge into the Town of York POTW if there is a combined sewer overflow (CSO) on the sewer lines conveying the waste to the POTW treatment plant.

Section 910 - Rejection of Wastewater

The Town of York Board may reject a User's Wastewater when it is has been determined that the Wastewater contains substances or possesses characteristics which have a deleterious effect on the POTW and its processes, or on the receiving water, or which constitute a public nuisance or hazard. See Section 1016.

Article 10 – Discharge Permits and Pretreatment Requirements

Section 1001 - Wastewater Discharge Reports

As a means of determining compliance with this Law, with applicable SPDES permit conditions, and with applicable State and Federal law, each industrial user shall be required to notify the Superintendent of any new or existing discharges to the POTW by submitting a completed Industrial Chemical Survey (ICS) form to the Superintendent. The Superintendent may require any user discharging Wastewater into the POTW to file Wastewater discharge reports and to supplement such reports as the Superintendent deems necessary. All information shall be furnished by the user in complete cooperation with the Superintendent.

Section 1002 - Notification to Industrial Users

The Superintendent shall, from time to time, notify each industrial user of applicable Pretreatment Standards, and of other applicable requirements under Section 204(B) and Section 405 of the Clean Water Act, and Subtitles C and D of RCRA.

Section 1003 A - Wastewater Discharges

No Significant Industrial User shall discharge Wastewater to the POTW without having a valid Wastewater Discharge Permit, issued by the Superintendent. Significant Industrial Users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Law. Violation of a permit term or condition is deemed a violation of this Law.

Section 1003 B - Wastewater Discharge Permits Required For Significant Industrial Users

All Significant Industrial Users proposing to connect to or to discharge to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a Wastewater Discharge Permit within 30 days after the effective date of this Law, and shall obtain such a permit within 90 days after making application.

Section 1003 C - Other Industrial Users

The Superintendent may issue Wastewater Discharge Permits to other industrial users of the POTW.

Section 1003 D - Discharge Permits to Storm Sewers Not Authorized

The Town of York does not have the authority to issue permits for the discharge of any Wastewater to a storm sewer. This authority rests with the NYSDEC.

Section 1004 A - Application for Wastewater Discharge Permits

Industrial Users required to obtain a Wastewater Discharge Permit shall complete and file with

the Superintendent an application in the form prescribed by the Town of York, the application shall be accompanied by a fee, as set forth in Section 1203. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC code of both the industry and any categorical processes.
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Article 10 of this Law and which are limited in the appropriate Categorical Standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with Standard Methods.
- (4) Time and duration of the discharge.
- (5) Average daily peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances.
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged to the POTW.
- (8) Each product produced by type, amount, process or processes, and rate of production.
- (9) Type and amount of raw materials processed (average and maximum per day).
- (10) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (11) The nature and concentration of any pollutants in the discharge which are limited by any County, State, or Federal Standards, and a statement whether or not the standards are being met on a consistent basis and if not whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable Standards.
- (12) If additional pretreatment and/or O&M will be required to meet the Standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and beginning routine operation).
 - (b) No increment referred to in (a) above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (c) No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return

- to the established schedule. In no event shall more than 9 months elapse between such progress reports to the Superintendent.
- (13) Any other information as may be deemed by the Superintendent to be necessary to evaluate the permit application.

The Superintendent will evaluate the data furnished by the Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Town of York may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

Section 1004 B - Permit Modifications

Wastewater Discharge Permits may be modified by the Superintendent, upon 30 days notice to the permittee, for just cause. Just cause shall include, but not be limited to:

- (1) Promulgation of an applicable National Categorical Pretreatment Standard,
- (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13,
- (3) Changes in general discharge prohibitions and local limits as per Section 903 of this law,
- (4) Changes in processes used by the permittee, or changes in discharge volume or character,
- (5) Changes in design or capability of any part of the POTW,
- (6) Discovery that the permitted discharge causes or contributes to pass through or interference, and
- (7) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance as set forth in Section 1004 A (12)(a).

Section 1004 C - Permit Conditions

Wastewater Discharge Permits shall be expressly subject to all the provisions of this Law, and all other applicable regulations, user charges and fees established by the Town of York. Permits may contain the following:

- (1) Limits on the average and maximum rate and time of discharge, or requirements for flow regulation and equalization.
- (2) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- (3) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (4) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (6) Compliance schedules
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town of York, and affording the Superintendent access thereto.

- (9) Requirements for notification of the Town of York of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (10) Requirements for the notification of the Town of York of any change in the manufacturing and/or pretreatment process used by the permittee.
- (11) Requirements for notification of excessive, accidental, or slug discharges.
- (12) Other conditions as deemed appropriate by the Town of York to ensure compliance with this Law, and State and Federal laws, rules, and regulations.

Section 1004 D - Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years.

Section 1004 E - Permit Reissuance

The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Superintendent, during the term of the permit, as limitations or requirements, as identified in Section 1004 B, or other just cause exists. The User shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance as established in Section 1004 A (12)(a).

Section 1004 F - Permit Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation, or discharge at a specific location. A Wastewater Discharge Permit shall not be reassigned, transferred, or sold to a new owner, new User, different premises, or a new or changed operation.

Section 1004 G - Permit Revocation

Wastewater Discharge Permits may be revoked for the following reasons: falsifying self-monitoring reports, tampering with monitoring equipment, refusing to allow the Superintendent timely access to the industrial premises, failure to meet effluent limitations, failure to pay fines, failure to pay user charges, failure to meet compliance schedules or failure to meet any other requirement of this Sewer Use Law.

Section 1004 H - Public Notification

The Town of York will publish in the Town of York official daily newspaper(s), informal notice of intent to issue a Wastewater Discharge Permit, at least 14 days prior to issuance.

Section 1005 - Reporting Requirements for Permittee

The reports or documents required to be submitted or maintained under this section shall be subject to:

- (a) The provisions of 18 USC Section 1001 relating to fraud and false statements;
- (b) The provisions of Sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and
- (c) The provisions of Section (c)(6) of the Act, as amended, regarding corporate officers.

(1) Baseline Monitoring Report

Within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard, a User subject to that standard shall submit, to the Superintendent, the information required by paragraphs (8) and (9) of Section 1004 A.

(2) 90-Day Compliance Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit, to the Superintendent, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User's facility which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis, and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

(3) Periodic Compliance Reports

- (a) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Superintendent, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in Section 1004 A. At the discretion of the Superintendent, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.
- (b) The Superintendent may impose mass limitations on Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or, in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 1005 (3) (a) shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of discharge sampling and analysis, including the flow, and the nature and concentration, or production and mass, where requested by the Superintendent, of

pollutants contained therein, which are limited by the applicable Pretreatment Standard. All analyses shall be performed in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses.

(4) Violation Report

If sampling, performed by the user, indicates a violation of this Law and/or the User's discharge permit, the User shall notify the Superintendent within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The User is not required to re-sample if the POTW performs monitoring of the User's discharge at least once a month for the parameter which was violated, or if the POTW performs sampling, for the parameter which was violated, between the User's initial sampling and when the User receives the results of this sampling. If POTW incurs any cost resulting from its sampling following a violation by a User, such cost shall be reimbursed to POTW by User.

(5) Other reports

The Superintendent may impose reporting requirements equivalent to the requirements imposed by Section 1005(3) for users not subject to pretreatment standards.

Section 1006 - Flow Equalization

No person shall cause the discharge of Slugs to the POTW. Each person discharging, into the POTW, greater than 100,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is lesser, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow to the satisfaction of the Superintendent

Section 1007 - Monitoring Stations (Control Manholes)

- (a) All Significant Industrial Users, and other Industrial Users whose industrial waste discharge has caused or may cause Interference or Pass-Through shall install and maintain a suitable monitoring station, on their premises at their expense, to facilitate the observation, sampling, and measurement of their Industrial Wastewater discharge.
- (b) If there is more than one street lateral serving an Industrial User, the Superintendent may require the installation of a control manhole on each lateral.
- (c) The Superintendent may require that such monitoring station(s) include equipment for the continuous measurement and recording of Wastewater flow rate and for the sampling of the Wastewater. Such station(s) shall be accessibly and safely located, and the Industrial User shall allow immediate access, without prior notice, to the station by the Superintendent, or his designated representative.

Section 1008 - Proper Design and Maintenance of Facilities and Monitoring Stations

Preliminary treatment, and flow equalization facilities, or monitoring stations, if provided for any Wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where an Industrial User has such treatment, equalization, or monitoring facilities at the time this Law is enacted, the Superintendent may approve or disapprove the adequacy of such facilities. Where the Superintendent disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization, or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Superintendent. Construction of new or upgraded facilities shall not commence until written approval of the Superintendent has been obtained.

Section 1009 - Vandalism, Tampering with Measuring Devices

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access, or render inaccurate, or cause or permit the negligent breaking, damaging, destroying, uncovering, defacing, tampering with, preventing access, or rendering inaccurate to:

- i. any structure, appurtenance, or equipment which is a part of the Town of York POTW, or
- ii. any measuring, sampling, and/or testing device or mechanism installed pursuant to any requirement under this Law except as approved by the Superintendent.

Section 1010 - Sampling and Analysis

Sampling shall be performed so that a representative portion of the Wastewater is obtained for analysis.

All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Law shall be carried out in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in Section 1007, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in Federal regulation, samples shall be gathered as flow proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

Section 1011 - Accidental Discharges; SPCC Plan

Each user shall provide for protection from accidental or Slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Law or of an Industrial Wastewater Discharge Permit. Users shall immediately notify the Superintendent of the discharge of wastes in violation of this Law or any Permit. Such discharges may result from:

- (1) Breakdown of pretreatment equipment
- (2) Accidents caused by mechanical failure, or negligence
- (3) Other causes.

Where possible, such immediate notification shall allow the Superintendent to initiate appropriate countermeasure action at the POTW. The User shall prepare a detailed written statement following any accidental or Slug discharge, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five (5) days of the occurrence, and the Superintendent shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

When required by the Superintendent, detailed written plans and procedures to prevent accidental or Slug discharges shall be submitted to the Superintendent, for approval. These plans and procedures shall be called a Spill Prevention, Control, and Countermeasure (SPCC) Plan. The plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of any accidental or Slug discharge. Such notification must also be given for any discharge which would violate any provision of the permit and any National Prohibitive Discharge Standard;
- (d) Procedures to prevent adverse impact from any accidental or Slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 1012 - Posting Notices

In order that the Industrial User's employees be informed of the Town of York requirements, a notice shall be permanently posted on appropriate bulletin boards within the User's facility advising employees of the Town of York requirements and whom to call in case of an accidental discharge in violation of this Law.

Section 1013 - Sample Splitting

When so requested in advance by an industrial user, and when taking a sample of Industrial Wastewater, the Town of York representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of size adequate for the anticipated analytical protocols including any Quality Control (QC) procedures. One of the portions shall be given to the representative of the industrial user whose wastewater was sampled, and the other portion shall be retained by the Town of York for its own analysis.

Section 1014 - Public Access to Information Maintained by the Superintendent

When requested, the Superintendent shall make available, to the public, for inspection and/or copying, information and data on Industrial Users obtained from reports, questionnaires, permit

applications, permit and monitoring programs, and inspections, unless the Industrial User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that such information, if made public, would divulge processes or methods of production entitled to protection as a trade secret or other intellectual property right of the User. Wastewater constituents and characteristics, and reports of accidental discharges shall not be recognized as confidential.

Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed, upon written request, to governmental agencies, for uses related to this Law, or the SPDES Permit, providing that the governmental agency making the request agrees to hold the information confidential, in accordance with State or Federal Laws, Rules and Regulations including but not limited with the NYS Freedom of Information Law. The Superintendent shall provide written notice to the industrial user of any disclosure of confidential information to another governmental agency.

Section 1015 A - Access to Property and Records

The Superintendent and other authorized representatives of the Town of York, representatives of EPA, NYSDEC, NYSDOH, and/or Livingston County Health Department, bearing proper credentials and identification, shall be permitted to enter upon all non-residential properties at all times for the purpose of inspection, observation, sampling, flow measurement, and testing to ascertain a User's compliance with applicable provisions of Federal and State law governing use of the Town of York POTW, and with the provisions of this Law. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up, on the User's property or property rented/leased by the User, such devices as are necessary to conduct sampling or flow measurement. Guard dogs shall be under proper control of the User while the representatives are on the User's property or property rented/leased by the User. Such representative(s) shall, additionally have access to and may copy any records the User is required to maintain under this Law. Where a User has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

Section 1015 B - Access to Easements

The Superintendent, bearing proper credentials and identification, shall be permitted to enter all private premises through which the Town of York holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town of York public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

Section 1015 C - Liability of Property Owner

During the performance, on private premises, of inspections, sampling, or other similar operations referred to in Sections 1014 A and 1014 B, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be

held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

Section 1016 - Special Agreements

Nothing in this Article shall be construed as preventing any special agreement or arrangement between the Town of York and any User of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Town of York Board shall consider whether the wastewater will:

- (1) pass-through or cause interference
- (2) endanger the public municipal employees
- (3) cause violation of the SPDES Permit
- (4) interfere with any Purpose stated in Section 102
- (5) prevent the equitable compensation to the Town of York for wastewater conveyance and treatment, and sludge management and disposal

No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

No agreement shall be entered into without the User having been issued and presently having a permit to discharge wastes into the POTW for treatment and disposal. Additionally, the User shall be in compliance with all conditions in the permit and shall not be in arrears in any charges due to the Town of York before the agreement is entered into. The Town of York Board may condition the agreement.

Article 11 – Enforcement and Penalties

Section 1101 – Enforcement Response Plan

Not applicable.

Section 1102 – Notification of Violation

Whenever the Superintendent finds that any User has violated or is violating this Law, or any Wastewater Discharge Permit, order, prohibition, limitation, or requirement permitted by this Law, the Superintendent may serve upon such person a written notice stating the nature of the violation. Within ten (10) calendar days of the date the Superintendent mails the notice, an explanation of the violation and a written plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent, by the User. The written correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the User of liability for any violations caused by the User before or after receipt of the Notice of Violation.

Section 1103 - Consent Orders

The Superintendent is hereby empowered to enter into written Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as an administrative order.

Section 1104 - Administrative or Compliance Orders

When the Superintendent finds that a User has violated or continues to violate this Law or a permit or administrative order issued thereunder, he may issue a written administrative order to the User responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated unless the violation is corrected and that there is no re-occurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

The User may, within fifteen (15) calendar days of receipt of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any petitions as frivolous or unfounded
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1105 - Administrative Fines

Notwithstanding any other section of this Law, any User who is found to have violated any provision of this Law, or a Wastewater discharge permit or administrative order issued hereunder,

shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation, unless such violation is by a Significant Industrial User or other User that is required to perform Pre-Treatment, in which case, all penalties shall be governed by 40 C.F.R. Part 403.8 (f)(1)(vi)(A). Each day of noncompliance shall be deemed a separate and distinct violation without the need to provide additional notice of such violations.

The User may, within fifteen (15) calendar days from notification of the Superintendent of such fine, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any petitions as frivolous or unfounded
- (2) Modify or suspend the fine, or
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1106 - Cease and Desist Orders

When the Superintendent finds that a User has violated or continues to violate this Law or any permit or administrative order issued hereunder, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

The User may, within fifteen (15) calendar days of the date the Superintendent mails notification of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1107 - Termination of Permit

Any User who violates the following conditions of this Law or a Wastewater discharge permit or administrative order, or any applicable or State and Federal law, is subject to permit termination:

(1) Violation of permit conditions or conditions of an administrative order, (2) Failure to accurately report the Wastewater constituents and characteristics of its discharge, (3) Failure to report significant changes in operations or Wastewater constituents and characteristics, (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling, or (5) Failure to pay administrative fines, fees or user charges.

Non-compliant Industrial Users will be notified, by registered mail, of the proposed termination of their Wastewater permit. The User may, within fifteen (15) calendar days of the date the Superintendent mails such notification, petition the Superintendent to permit continued use of the

POTW by the User. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail.

The Superintendent shall then: (1) Reject any petitions as frivolous or unfounded or (2) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1108 - Water Supply Severance

Whenever a User has violated or continues to violate the provisions of this Law or an order or permit issued hereunder, water service to the User may be severed and service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply. The User may, within fifteen (15) calendar days of severance, petition the Superintendent to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any petitions as frivolous or unfounded
- (2) Reconnect the water supply, or
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1109 - Show Cause Hearing

The Superintendent may order any User appealing administrative remedies for violations of this Law to show cause, before the Town of York Board, why an enforcement action, initiated by the Superintendent, should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Town of York Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Town of York Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) calendar days before the hearing in accordance with Section 1111 of this Article. Service shall be made on any principal or executive officer of a User's establishment or to any partner in a User's establishment. The notice of the hearing shall be served at least ten (10) calendar days before the hearing, in accordance with Section 1111. The Town of York Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Town of York to conduct the hearing:

- (1) Issue, in the name of the Town of York Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings,
- (2) Take the evidence,
- (3) Take sworn testimony,
- (4) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town of York Board for action thereon.

After the Town of York Board has reviewed the evidence and testimony, it may order the user to comply with the Superintendent's order or fine, modify the Superintendent's order or fine, or vacate the Superintendent's order or fine.

Section 1110 - Failure of User to Petition the Superintendent

In the event the Superintendent issues any administrative order, terminates the User's permit, or makes any fine as set forth in this article, and the User fails, within the designated period of time set forth, to petition the Superintendent, as provided in appropriate sections of this article, the User shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

Section 1111 – Notice

The notices, orders, petitions, or other notification which the User or Superintendent shall desire or be required to give pursuant to any sections of this Law shall be in writing and shall be served personally or sent by certified mail or registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the User pursuant to the sections of this Law shall be mailed to the User where the User's effluent is discharged into transmission lines to the Town of York's POTW. Any notice, petition, or other communication mailed to the Superintendent shall be addressed and mailed to the Town of York Hall of the Town of York.

Section 1112 - Right to Choose Multiple Remedies

The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Superintendent may utilize more than one administrative remedy established pursuant to this Article, and the Superintendent may hold one show cause hearing combining more than one enforcement action.

Section 1113 - Civil Actions For Penalties

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any administrative order or determination of the Superintendent promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Town of York for a civil penalty not to exceed one thousand dollars (\$1000) for each such violation, to be assessed after a hearing (unless the User waives the right to a hearing) held in conformance with the procedures set forth in this Article, unless such violation is by a Significant Industrial User or other User that is required to perform Pre-Treatment, in which case, all penalties shall be governed by 40 C.F.R. Part 403.8 (f)(1)(vi)(A). Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation without requiring additional service to be served. Such penalty may be recovered in an action brought by the Town of York attorney, or his designated attorney, at the request of the Superintendent in the name of the Town of York, in any court of competent jurisdiction giving preference to courts local to the Town of York. In addition to the above described penalty, the Superintendent may recover all damages incurred by the Town of York from any persons or Users who violate any provisions of this Law, or who fail to perform any duties imposed by this Law or any administrative order or determination of the Superintendent promulgated under this Law, or the terms of any permit issued hereunder. In addition to the above described damages, the Superintendent may recover all reasonable attorney's fees incurred by the Town of York in

enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Superintendent may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other relative factors as justice may require.

Such civil penalty may be released or compromised by the Superintendent before the matter has been referred to the Town of York attorney, and where such matter has been referred to the Town of York attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Town of York attorney, with the consent of the Superintendent.

Section 1114 - Court Orders

In addition to the power to assess penalties as set forth in this Article, the Superintendent shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:

- (1) Suspending, revoking, or modifying the violator's Wastewater Discharge Permit, or
- (2) Enjoining the violator from continuing the violation.

Any such court order shall be sought in an action brought by the Town of York attorney, at the request of the Superintendent, in the name of the Town of York, in any court of competent jurisdiction giving precedence to courts local to the Town of York.

The Town of York attorney, at the request of the Superintendent shall petition the Court to impose, assess, and recover such sums imposed according to this Article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Section 1115 - Criminal Penalties

Any person who willfully violates any provision of this Law or any final determination or administrative order of the Superintendent made in accordance with this Article shall be guilty of a Class A Misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or imprisonment not to exceed one (1) year or both, unless such violation is by a Significant Industrial User or other User that is required to perform Pre-Treatment, in which case, all penalties shall be governed by 40 C.F.R. Part 403.8 (f)(1)(vi)(A). Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

No prosecution, under this Section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

Section 1116 - Additional Injunctive Relief

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the Superintendent, through counsel may petition the Court, in the name of the Town of York, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with any order or determination thereunder by the Superintendent.

Section 1117 - Summary Abatement

Notwithstanding any inconsistent provisions of this Law, whenever the Superintendent finds, after investigation, that any User is causing, engaging in, or maintaining a condition or activity which, in the judgement of the Superintendent, presents an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such User by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a User's failure to comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) calendar days, the Superintendent shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

If the User is not within the geographic boundaries of the Town of York the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in the inter-municipal agreement.

The Superintendent, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.

Section 1118 - Delinquent Payments

If there shall be any payments which are due to the Town of York, or any Department thereof, pursuant to any Article or Section of this Law, which shall remain due and unpaid, in whole or in

part, for a period of twenty (20) calendar days from the date of billing by the Town of York, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to twenty percent (20%) of the original bill, and interest shall accrue on the unpaid balance, at the rate of two percent (2%) per month, retroactive to the date of the original billing.

In the event that there are any sewer taxes, assessments, or other service charges which shall have been delinquent for a period of at least sixty (60) calendar days as of December 15 of any year, the Superintendent shall report the names of the defaulting persons to the Town of York Supervisor, the Town of York Clerk, the Town of York Chief Assessor, and the Town of York Treasurer on or before December 15 of the same year. The Town of York Chief Assessor is hereby directed to add the entire amount of the sewer tax, assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this Law, to the real property taxes due and owing to Town of York in the next succeeding year, and the Town of York Chief Assessor is directed to collect the same in the same manner as real property taxes due and owing to the Town of York are collected.

Where charges are delinquent and the violator is not a resident of the Town of York, or is located outside the geographical boundaries of the Town of York, then the Town of York attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction or make arrangements with the appropriate county where the User is located to add the amount of the sewer assessment or other charges which shall be in default, plus penalty and interest, as provided for in the Law, to the real property taxes due to the County in the next ensuing year.

Section 1119 - Performance Bonds

The Superintendent may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

Section 1120 - Liability Insurance

The Superintendent may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder, unless the User first submits proof that it has obtained financial assurances in a form acceptable to the Superintendent sufficient to restore or repair POTW damage caused by its discharge.

Section 1121 - Informant Rewards

The Superintendent is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the User, the Superintendent is authorized to disperse up to ten (10) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000, including the discovery reward.

Section 1122 - Public Notification

The Superintendent Shall provide public notification, in the daily newspaper with the largest circulation in the Town of York, of Users which were in significant non-compliance of local or Federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year.

Section 1123 - Contractor Listings

- (1) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town of York.
- (2) Existing contracts for the sale of goods or services to the Town of York held by a User found to be in significant violation with pretreatment standards may be terminated at the discretion of the Town of York Board.

Article 12 – Charges

Section 1201 – Normal Sewage Service Charges

All persons discharging or depositing wastes into the Public Sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited, which charge shall be collected as a sewer rent.

Section 1202 - Surcharge for Abnormal Sewage

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge.

Section 1203 - Total Sewer Service Charge

The total sewer service charge, (which shall be called the "User Charge"), is comprised of two parts, as follows:

$$UC(t) = UC(n) + UC(an)$$

Where:

UC(t) = total User Charge for POTW operation and maintenance

UC(n) = User Charge associated with normal sewage

UC(an) = User Charge associated with abnormal sewage

UC(n) = OM X (OQ/100) X (QIA/QA)

UC(an) = OM { [OB/100 X (BIA-Bn)/BA] + [OS/100 X (SIA-Sn)/SA] + [OP/100 X (PIA-Pn)/PA] + [ONH/100 X (NHIA-NHn)/NHA] + [OTK/100 X (TKIA-TKn)/TKA] }

Where:

OM = total annual POTW operation and maintenance costs

OQ = percentage of OM attributable to flow (Q)

OB = percentage of OM attributable to BOD5

OS = percentage of OM attributable to suspended solids

OP = percentage of OM attributable to total phosphorus

ONH = percentage of OM attributable to ammonia

OTK = percentage of OM attributable to total Kjeldahl nitrogen

QIA = average daily flow rate (MGD) from discharger

BIA = average daily BOD5 loading (LB/DAY) from discharger

SIA = average daily suspended solids loading (LB/DAY) from discharger

PIA = average daily total phosphorus loading (LB/DAY) from discharger

NHIA = average daily ammonia loading (LB N/DAY) from discharger

TKIA = average daily total Kjeldahl nitrogen loading (LB N/DAY) from discharger

QA = average daily flow rate (MGD) at the POTW treatment plant

BA = average daily BOD5 loading (LB/DAY) at the POTW treatment plant

SA = average daily suspended solids loading (LB/DAY) at the POTW treatment plant

PA = average daily total phosphorus loading (LB/DAY) at the POTW treatment plant
NHA = average daily total ammonia loading (LB N/DAY) at the POTW treatment plant
TKA = average daily total Kjeldahl nitrogen loading (LB N/DAY) at the POTW treatment plant
Bn = BOD5 loading (LB/DAY) in discharge if it were normal sewage
Sn=suspended solids loading (LB/DAY) in discharge if it were normal sewage
Pn = total phosphorus loading (LB/DAY) in discharge if it were normal sewage
NHn = ammonia loading (LB N/DAY) in discharge if it were normal sewage
TKn = total Kjeldahl nitrogen loading (LB N/DAY) in discharge if it were normal sewage

Note: if any difference terms in the equation above is negative, then that portion of the equation shall not be used, that is, the difference shall be set to zero when it is negative.

Note: all averages are arithmetic averages determined from available data during the billing period.

Section 1204 - Segmenting the POTW

The service area of the POTW may be segmented to assist in a fair distribution of user charges, especially if there is a pump station serving a segment.

Section 1205 - Measurement of Flow

The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Town of York Water Department. In the event that a person discharging wastes into the POTW produces evidence, to the Superintendent, demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Superintendent shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from un-metered sources, the Superintendent shall either direct the installation of water meters on the other sources of water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this Section shall be of a type and design acceptable to the Superintendent and shall be installed, maintained, and periodically tested as required by the Superintendent, at the owner's expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the Superintendent. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the Superintendent, at the owner's expense.

Section 1206 - Billing Period

The Billing Period shall be quarterly.

Section 1207 - Pretreatment Program Costs

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the User, and include:

- (1) reimbursement of costs of setting up and operating the pretreatment program
- (2) issuing permits
- (3) monitoring, inspections, and surveillance procedures
- (4) costs of equipment and supplies
- (5) reviewing accidental discharge procedures
- (6) construction inspections
- (7) filing appeals
- (8) application for consistent removal status as outlined in 40 CFR 403
- (9) other reasonable expenses to carry out the program to satisfy the requirements of this Law, the NYSDEC, and the Federal government

Section 1208 - Charges for Trucked and Hauled Wastes

The charge for treatment and disposal of trucked or hauled waste which has been introduced into the POTW shall be as established by the Town of York Board. The manner of determining the volume dumped shall be at the discretion of the Superintendent.

Section 1209 - Capital Recovery

The Town of York may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

Section 1210 - Collection of Charges

Provisions of Article 11 of this Law relating to the collection of penalties shall apply to the collection of Sewer Service Charges and Abnormal Sewage Service Surcharges, unless where otherwise provided by application of the Sewer Rent Law by Town of York.

Section 1211 - Fiscal Year for System

The POTW shall be operated on the basis of a fiscal year commencing on the first day of January and ending on the thirty-first day of December.

Section 1212 - Impact Fees

The Town of York (Board) shall have the authority to impose impact fees on new development, which development may:

- (1) cause enlargement of the service area of the POTW
- (2) cause increased hydraulic and/or treatment demands on the POTW

Section 1213 - Use of Revenues

Revenues derived from user charges and associated penalties, and impact fees, shall be credited to a special fund. Monies in this fund shall be used exclusively for the following functions:

- (a) For the payment of the operation and maintenance, including repair and replacement costs of the Town of York POTW,
- (b) For the discovery and correction of inflow and infiltration,
- (c) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Town of York POTW,
- (d) For the extension, enlargement, replacement of, and/or additions to the Town of York POTW, including any necessary appurtenances.

Section 1214 - Records and Accounts

The Town of York shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW. The Town of York will cause an annual audit of such books of record and account for the preceding fiscal year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized officials, and the public, on request.

In conjunction with the audit, there shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year.

Classification of old and new industrial users should also be reviewed annually.

The Town of York shall maintain and carry insurance on all physical properties of the POTW, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

Article 13 – Public Disclosure of POTW Operations

Section 1301 – POTW Operations Open to the Public

It shall be the policy of the Town of York (Board) to conduct all business with full disclosure to the public.

Section 1302- Procedural Requirements Available

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Law and for requesting a hearing shall be formulated by the Town of York and be made available to any resident of the Town of York upon request.

Section 1303- Validity Through Public Inspection

The Town of York shall formulate procedures to make available to the public for inspection such orders, statements of policy, and interpretations used by the Town of York in administration of this Law. No rule, regulation, or civil order shall be valid until it has been available for public inspection.

Article 14 - Conflicts, Severability, Effective Date And Applicability

Section 1401- Conflicts

The provisions of any Town of York law in conflict with any provision of this Law are hereby repealed.

Section 1402- Severability

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law which shall nonetheless remain in full force and effect.

Section 1403- Effective Date

This law shall take effect 30 days after its filing in the office of the Secretary of State.

Section 1404- Applicability

Articles 1, 2, 4, 8, 11, 12, 13 and 14 shall apply in all incorporated areas of the Town of York. Articles 3, 5, 6, 7, 9 and 10 shall apply only in incorporated areas of the Town of York which are also within the service area of the POTW.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of YORK

Local Law No. 1 of the year 20 18

A local law Providing a Partial Exemption from Real
(Insert Title)
Property Taxes to Cold War Veterans, under Section
458-b of the NYS Real Property Tax Law.

Be it enacted by the YORK TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of YORK as follows:

(See attached documentation)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF YORK LOCAL LAW NO. 1 of 2018

A LOCAL LAW PROVIDING A PARTIAL EXEMPTION FROM REAL PROPERTY TAXES TO COLD WAR VETERANS.

Be it enacted by the Town Board of the Town of York as follows:

Section 1.

This local law is adopted pursuant to the authorization granted by Real Property Tax Law §458-b. All definitions, terms and conditions of such statute shall apply to this local law.

Section 2.

Qualifying residential real property owned by a Cold War Veteran, or other qualified owner, shall be entitled to a partial exemption from taxation to the extent of fifteen per cent (15%) of the assessed valuation, not to exceed \$12,000.00 or the product of \$12,000.00 multiplied by the latest State equalization rate. Additionally, where the Cold War Veteran received a compensation rating from the United States veterans affairs or from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by fifty percent (50%) of the Cold War Veteran disability rating, not to exceed Forty Thousand Dollars or the product of Forty Thousand Dollars multiplied by the latest State equalization rate.

Section 3.

Pursuant to subsection 2(c)(iii) of §458-b of the NYS Real Property Tax Law, the exemption authorized shall apply to qualifying owners of qualifying real property for as long as they remain qualifying owners, without regard to the ten year limitation otherwise stated therein.

Any other Local Law, ordinance or resolution inconsistent herewith is hereby repealed. This Local Law expressly repeals and replaces any prior local law adopted by this Board establishing such exemption.

Section 4.

This Local Law shall take effect immediately upon its filing in the Office of the Secretary of State and be effective with the 2018 assessment roll.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 18 of the (County)(City)(Town)(Village) of YORK was duly passed by the Town Board on Feb. 8, 20 18, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the SUPERVISOR and was deemed duly adopted (Elective Chief Executive Officer*) on Feb. 8, 20 18, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

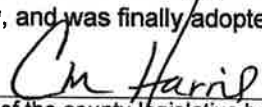
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: February 9, 2018

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of YORK

Local Law No. 2 of the year 20 18

A local law Adding Solar Energy Systems article to the
(Insert Title)
Zoning Ordinance of the Town of York

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of YORK as follows:

(See attached documentation)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF YORK
LOCAL LAW NO. 2 OF THE YEAR 2018

**A Local Law Entitled “Adding Solar Energy Systems article to the Zoning Ordinance of
the
Town of York.”**

Be it enacted by the Town Board of the Town of York as follows:

Article VI of the Zoning Ordinance of the Town of York (here after “Zoning Code”) shall be amended to add a new section 618 which shall be entitled “Solar Energy Systems” and shall read as follows;

618. Solar Energy Systems

- A. Authority and Legislative Intent. The Town Board of the Town of York states the following as its findings and legislative intent:
- (1) This Zoning for Solar Energy Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of York to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
 - (2) The Town Board of the Town of York recognizes that solar energy is a clean, readily available and renewable energy source and the Town of York intends to accommodate the use of solar energy systems.
 - (3) However, the Town Board finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of York to protect residential uses, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of York, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of York.
 - (4) Prior to the adoption of this Article, no specific procedures existed to address the regulation and siting of solar energy systems. Accordingly, the Town Board finds that the promulgation of this Article is necessary to direct the location, size and construction of these systems.
 - (5) In addition, the Town Board believes it to be necessary to regulate and govern the proper and timely removal of solar energy systems upon such systems becoming non-functional or when they are no longer being utilized.

B. Definitions. The following definitions shall apply to this section 618:

Applicant - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Article, said term shall include any person acting as an applicant, owner or operator.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other Structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a Building.

Ground-Mounted Solar Energy System - Any Solar Energy System that is affixed to the ground either directly or by support Structures or other mounting devices where such Structure and mounting exists solely to support the Solar Energy System.

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted Building or Structure and wholly contained within the limits of the roof surface.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Type 1 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a building, single-family residence, multi-family residence, business or farm. Said system shall be

considered an Accessory Use (as defined in §508) and an accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

Type 2 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

- C. Zoning districts where allowed. Subject to the provisions of this section 618, Solar Energy Systems shall be allowed as follows:
- (1) Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (2) Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (3) Rooftop-Mounted and Building-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - a. The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district they are located.
 - c. Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design criteria:
 - (i). Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (ii). No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safety access purposes.
 - (iii). If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv). If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way.

- (v). Roof-Mounted Solar Energy Systems shall be exempt from site plan review under the Zoning Code, excepting the requirement to obtain a building permit.
- (4) Type 1 Solar Energy Systems are allowed as accessory uses and/or structures in all zoning districts except Planned Development Districts. Type 1 Solar Energy Systems which are to be located in a Planned Development Districts must comply with the requirements of section 409. before the same are permitted.
- a. The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Height. Type 1 Solar Energy Systems shall not exceed fifteen (15) feet at the highest point when oriented at maximum tilt.
 - c. Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings or Structures within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - d. Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings or structures within the zoning district in which it is located and in no event shall the combination of all Accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum tilt.
 - e. All Type 1 Solar Energy Systems located in Residential Districts (R), Hamlet Residential Districts (HR) and High Density Residential Districts (HDR) shall be installed in the side or rear yard.
 - f. All applications for Type 1 Solar Energy Systems for businesses or farms, to the extent permitted by law, shall be subject to Site Plan review pursuant to Article XI. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the

sole discretion of the Code Enforcement Officer.

- g. Pursuant to 6 NYCRR 617.5, Type 1 Solar Energy Systems to be used on residential parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.

(5) Type 2 Solar Energy Systems are permitted in all zoning districts subject to the requirements set forth in this Section, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to section 905. D. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.

- a. Areas Where Type 2 Solar Energy Systems Are Not Permitted. Type 2 Solar Energy Systems shall not be permitted to be constructed in the following areas:
 - (i). Any property which is listed on either the New York State or National Register of Historic Places.
 - (ii). Any property located to the east of River Road of MacIntyre Road, as such area is deemed to be a view-shed of significant importance within the Town.
- b. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the Site Plan application provided to the Planning Board, any information required by section 804. B and 905. D. of the Zoning Code and the following documents and information:
 - (i). If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
 - (ii). Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the solar energy system along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or

erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.

- (iii). Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
 - (iv). Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
 - (v). A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
 - (vi). Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
 - (vii). Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- c. Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.
- (i). Prior to obtaining a building permit, the Applicant must provide a financial security bond (or other form of surety acceptable to the

Town of York at its discretion) for the removal of the Type 2 Solar Energy System, with York as the designated assignee, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual adjustment for the cost of inflation.

- d. Special Use Permit and Site Plan Approval Standards.
- (i). Height. Type 2 Solar Energy Systems shall adhere to the height requirements of the underlying zoning district.
 - (ii). Setbacks. Type 2 Solar Energy Systems setbacks shall be a minimum of 300 feet from public roadways and adjacent property lines and shall be measured from the solar array panels at lowest elevation.
 - (iii). Lot Size. Type 2 Solar Energy Systems shall be located on lots with a minimum lot size of 25 acres.
 - (iv). Lot Coverage. Type 2 Solar Energy Systems shall not exceed 25% coverage of the lot on which it is installed. The coverage area shall be determined by the area enclosed by the perimeter of the Solar Energy System at minimum tilt.
 - (v). Coverage Restrictions for Prime Agricultural Soils: Type 2 Solar Energy Systems shall not be constructed in a fashion that will cover more than 25% of the total Prime Agricultural Soils located on any lot or parcel. The coverage area shall be determined by the area enclosed by the perimeter of the Solar Energy System at minimum tilt.
 - (vi). Recent Combination of Lots/Parcels. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Planning Board shall consider the lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of York within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent and owner of land from combining lands into larger parcels that would permit siting of larger Type 2 Solar Energy Systems on what would have otherwise been a lot that permitted a smaller Type 2 Solar Energy System with coverage as restricted herein.

- (v). Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts.
- (vi). Number of Type 2 Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per Lot, regardless of Lot size.
- (vii). Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- (viii). After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (ix). Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (x). Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the system being proposed.
- (xi). A single public hearing may be held for purposes of the Site Plan application and Special Use Permit application.
- (xii). Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617). The York Planning Board shall conduct the review.
- (xiii). The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of York or other federal or state regulatory agencies. The York Town Planning Board and the York Zoning Board of Appeals may impose conditions on its approval of any Site Plan or Special Use Permit under this Article to enforce the

standards referred to in this Article or to discharge its obligations under the State Environmental Quality Review Act.

- (xiv). Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within six (6) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xv). General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xvi). Inspections. Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

- D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of York shall be permitted only as follows:
- (1) Any inconsistent provisions of the Code of the Town of York which purport to or may be interpreted to regulate placement or size of Solar Energy Systems are hereby superseded.
 - (2) All Solar Energy Systems existing on the effective date of this section 618 shall be “grand fathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this section.
 - (3) No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
 - (4) Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this section 618
 - (5) This section 618 shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Code of the Town of York.
 - (6) The owners or developers of all Type 2 Solar Energy Systems shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.
 - b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.

E. Abandonment and Decommissioning.

- (1) If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy for offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
- (2) Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder/owner with written notice by personal service or certified mail. Any appeal by the permit holder/owner of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of York Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder/owner and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
- (3) Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of York Zoning Board of Appeals or the Town Planning Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. All such costs of removal shall be the sole responsibility of the permit holder and/or owner of the Solar Energy System. If the permit holder and/or owner does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit holder/owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.
- (4) Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by section 618 C. (5) c. above. In the event

that Applicant or the then owner of the Type 2 Solar Energy System fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

F. Revocation.

If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of York Zoning Board of Appeals holds a hearing to determine if the Applicant has violated the terms of its approved Special Use Permit or Site Plan.

G. Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

H. Severability.

If any section, subsection, phrase, sentence or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

I. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of York

Local Law No. 3 of the year 20 18

A local law To override the tax levy limit established
(Insert Title)
in General Municipal Law 3-C

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of York as follows:

(See attached documentation)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Local Law No 3 of the year 2018
Town of York,
County of Livingston

**A local law to override the tax levy limit established in
General Municipal Law 3-C**

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of York pursuant to General Municipal Law §3-c 5, and to allow the Town of York to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law §3-c 2 (g).

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the town board to override the tax levy limit by adoption of a local law approved by a vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of York, County of Livingston, is hereby authorized to adopt a budget for the fiscal year 2019 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, 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 5. Effective Date

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

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of YORK

Local Law No. 1 of the year 2019

A local law Establishing a Temporary Land Use Moratorium
(Insert Title)
Prohibiting Large Scale Solar Installations
within the Town of York,

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF YORK LOCAL LAW NO. 1 of 2019

A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING LARGE SCALE SOLAR INSTALLATIONS WITHIN THE TOWN OF YORK

Be it enacted by the Town Board of the town of York as follows:

SECTION 1. PURPOSE AND INTENT.

This local law is intended to temporarily prohibit the creation or siting of large scale solar power installations (as hereinafter defined) within the Town of York for a period of up to twelve (12) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such installations.

On or about October 12, 2017, the York Town Board duly adopted a previous one year "Moratorium Prohibiting Large Scale Solar Installations within the Town of York" (hereafter "Previous Moratorium").

During the term of the Previous Moratorium, the Town Board established a working committee that actively conducted research on the subject of large scale solar installations, which included reviewing various versions of model legislation being used by other communities, seeking guidance and input from members of the York Joint Planning Board and from various consultants and resources made available from the New York State Energy Research and Development Authority and the New York State Department of Agriculture and Markets. The working committee assisted in the preparation of a proposed local law to add to the Code of the Town of York, zoning and land use regulations relating to solar energy systems.

The York Town Board did, on October 11, 2018, adopt a local law resulting from such research and efforts of the committee, which established regulations relating to the development of solar energy system installations within the Town of York. However, at the time of adoption of such local law the York Town Board did determine that additional time was needed to research this complicated and technical area, despite the diligent efforts during the time of the Previous Moratorium. The Town Board is particularly sensitive to the need to effectively legislate the siting of large scale solar installations in such a way that attempts to preserve the ability to maintain prime agricultural soils and the continued production of those soils.

The Town Board recognizes and acknowledges that the Town needs additional time to study and analyze certain considerations that might lead to amendment of the current zoning regulations that are in place to govern creation and siting of solar energy system installations, particularly those issues relating to agricultural production and siting of such solar development on prime agricultural soils.

The Town Board also recognizes the need to review and examine certain model regulations which upon information and belief continue to be developed by other communities who are in the process of regulating existing solar energy system projects. It is deemed necessary to enact this additional moratorium in order to permit the Town Board adequate time in which to draft suitable additional legislation to allow for proper siting and development of the solar industry within the Town of York. During the term of the moratorium, the Town of York shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of York. It is anticipated that such additional land use regulations shall amend and supplement the local law adopted by the York Town Board on October 11, 2018.

The objective of this moratorium is to allow the Town of York to assess and address its Code to promote community planning values by properly regulating future large scale solar installations. During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the York Town Code, thus protecting and furthering the public interest, health and safety.

SECTION 2. TEMPORARY MORATORIUM.

- A. There is hereby adopted in the Town of York a twelve (12) month moratorium on the consideration, receipt or granting of land use applications, site plan approval, and zoning changes or amendments to permit the siting or creation of "Large Scale Solar Installations."

"Large Scale Solar Installations" are defined, for the purpose of this local law, as any installation of solar panels or equipment undertaken principally for commercial purposes with an intention of generating power for resale into the power grid by a third party. Any installations by, or undertaken on behalf of

individual landowners, householders, businesses or farmers, primarily for the purpose of off-setting their own electric energy use shall not be considered a Large Scale Solar Installation and shall be specifically exempted from this moratorium. However, any such exempted solar generating improvements shall not generate in excess of 110% of the three (3) year average annual consumption of such individual landowner, householder, business or farmer.

- B. During the term of the moratorium the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate Large Scale Solar Installations. Said moratorium shall be effective as of the date set forth hereinbelow.
- C. While the moratorium is in effect, no applications shall be accepted, and no permits issued or approvals given by any Board, agency or official of the Town of York for the siting or creation of a Large Scale Solar Installation.

SECTION 3. APPLICABILITY.

The provisions of this local law shall apply to all real property within the Town of York, and all land use applications for the siting or creation of Large Scale Solar Installations within the Town of York.

SECTION 4. RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board shall consider:

1. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other environmental concerns.
2. The impact of the proposed application on the applicant's premises and upon the surrounding area.
3. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
4. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of York.

5. The written opinion of the Town of York Planning Board and the Town of York Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
6. Such other reasonable considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the Town Attorney, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application.

SECTION 5. STATUTORY AUTHORITY; SUPERCESSION.

This local law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of the Town Code of the Town of York, and sections 267, 267-a, 267-b, 267-c, 274-a, 274-b and 276 of the Town Law of the State of New York. Furthermore, this chapter shall supersede the New York State Environmental Conservation Law section 3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This local law shall supersede and suspend those provisions of the Town Code and New York state law which require the Planning Board and the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

SECTION 6. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 7. SEVERABILITY.

The invalidity of any word, section, clause, sentence, paragraph, part or provision of this local law shall not affect the validity of any other part of the law which can be given effect without such invalid part or parts.

SECTION 8. EFFECTIVE DATE.

The effective date of this local law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person or applicant.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of YORK

Local Law No. 2 of the year 20 19

A local law to amend Article IV of the Zoning Ordinance of the
(Insert Title)
Town of York, Livingston County, New York to modify
Section 402. C. of such section.

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW NO. 2 OF THE YEAR 2019
OF THE TOWN OF YORK

A local law to amend the Zoning Ordinance of the Town of York, Livingston County, New York to modify Article IV, Section 402. C.

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO AMEND ARTICLE IV OF THE ZONING ORDINANCE OF THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK TO MODIFY SECTION 402. C. OF SUCH SECTION.”

SECTION 2. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of York in a fashion that is not inconsistent with the Comprehensive Plan of the Town of York. This Local Law regulates the use of buildings and structures and the development and use of land within the Town of York.

B. To these ends, this local law and the Article that it amends is designed to:

1. Enhance and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan so that the Town may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the agricultural, commercial, industrial, and residential areas within the Town and with due consideration to the character of each district and its suitability for particular uses; and
2. Protect and manage the character of the Town.

SECTION 3. CHANGES TO SECTION 402. C. – Hamlet Residential District (HR)

The current Section 402. C. of the Zoning Ordinance of the Town of York is hereby modified and amended to include a new use permitted with a Special Use Permit, which such section is designated as “§402. C. (6)” and shall read as follows:

- (6) Professional services office such as, but not limited to law office, accounting office, dental office, doctor office, architect or engineer office or land surveyor office Bar.

SECTION 4. EFFECTIVE DATE.

This local law shall be effective thirty (30) days after its filing with the Office of the Secretary of State.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of YORK

Local Law No. 3 of the year 2019

A local law to amend the boundaries of the Hamlet Commercial and Residential District and to change a portion of such areas by re-designating such areas to a Commercial District classification, all within the Town of York, Livingston County, New York.
(Insert Title)

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW NO. 3 OF THE YEAR 2019
OF THE TOWN OF YORK

A local law to amend the boundaries of certain zoning districts currently known as Hamlet Commercial District (HC) and Residential District (R) within the Town of York, Livingston County, New York, changing such certain specified areas to Commercial District (C).

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO AMEND THE BOUNDARIES OF THE HAMLET COMMERCIAL AND RESIDENTIAL DISTRICT AND TO CHANGE A PORTION OF SUCH AREAS BY RE-DESIGNATING SUCH AREAS TO A COMMERCIAL DISTRICT CLASSIFICATION, ALL WITHIN THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK.”

SECTION 2. PURPOSE.

The purpose of this local law is to modify the boundaries of the Hamlet Commercial (HC) and Residential District (R) zoning districts within the Town, changing such certain specified areas to Commercial District (C).

SECTION 3. LOCATION OF MODIFIED ZONING DESIGNATION.

The parcels to be amended from Hamlet Commercial (HS) and Residential (R) to a new designation of Commercial (C) are located on the north side of New York State Route 63, south of where it intersects with Retsof Road and being further described as follows:

PARCEL 1:

All that tract or parcel of land situate in the Town of York, County of Livingston, State of New York, known as 2727 Genesee Street and bearing Tax Identifier Map Parcel Number: 61.-1-51

Containing 1.6 Acres, more or less.

PARCEL 2:

All that tract or parcel of land situate in the Town of York, County of Livingston, State of New York, known as 3695 Retsof Road and bearing Tax Identifier Map Parcel Number: 61.-1-84.11

Being approximately 220 feet by 195.27 feet in area, more or less.

PARCEL 3:

All that tract or parcel of land situate in the Town of York, County of Livingston, State of New York, known as (vacant land) Genesee Street and bearing Tax Identifier Map Parcel Number: 61.-1-84.121

Containing 2.37 Acres, more or less.

Each of the above parcels shall be modified from their respective present zoning classifications to a new zoning classification of Commercial District (C) and the official Zoning Map of the Town of York shall be amended to reflect such reclassification (although not contemporaneously with the adoption of this Local Law).

SECTION 4. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

LOCAL LAW NO. 4 OF THE YEAR 2019
OF THE TOWN OF YORK

A local law to amend the boundaries of certain zoning districts currently known as Planned Development District (PD) within the Town of York, Livingston County, New York, changing such certain specified area to Agricultural District (A).

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO AMEND THE BOUNDARIES OF A CERTAIN PLANNED DEVELOPMENT DISTRICT AND TO CHANGE A PORTION OF SUCH AREA BY RE-DESIGNATING SUCH AREA TO A AGRICULTURAL DISTRICT CLASSIFICATION, ALL WITHIN THE TOWN OF YORK, LIVINGSTON COUNTY, NEW YORK.”

SECTION 2. PURPOSE.

The purpose of this local law is to modify the boundaries of a certain Planned Development (PD) zoning district within the Town, changing such certain specified area to Agricultural District (A) and thereby changing the boundaries of the Agricultural District (A).

SECTION 3. LOCATION OF MODIFIED ZONING DESIGNATION.

The parcel to be amended from Planned Development District (PD) to a new designation of Agricultural District (A) is located on the east side of New York State Route 36 to the north of where it intersects with Town line Road and being further described as follows:

All that tract or parcel of land situate in the Town of York, County of Livingston, State of New York, known as 4185 Main Street and bearing Tax Identifier Map Parcel Number: 70.-1-57

Containing 19.01 Acres, more or less.

The entirety of the above parcel shall be modified from its present zoning classifications of Planned Development District (PD) to a new zoning classification of Agricultural District (A) and the official Zoning Map of the Town of York shall be

amended to reflect such reclassification (although not contemporaneously with the adoption of this Local Law).

SECTION 4. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of YORK

Local Law No. 5 of the year 2019

A local law Establishing a Temporary Land Use Moratorium
(Insert Title)
prohibiting Large Scale Battery Energy Storage
System Installations within the Town of York

Be it enacted by the YORK TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF YORK LOCAL LAW NO. 5 of 2019

**A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE
MORATORIUM PROHIBITING LARGE SCALE BATTERY ENERGY
STORAGE SYSTEM INSTALLATIONS WITHIN
THE TOWN OF YORK**

Be it enacted by the Town Board of the Town of York as follows:

SECTION 1. TITLE

This Local Law shall be known as the "Moratorium on and Prohibition of Large Scale Battery Energy Storage System Installations within the Town of York."

SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of York under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

This Local Law is a land use regulation. This Local Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive "incidental control" of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as potential negative impacts of such uses on a community.

This Local Law shall supersede and suspend those provisions of the Zoning Ordinance of the Town of York and New York state law which require the Planning Board and/or the Town

Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large scale battery energy storage system installations (as herein later defined) within the Town of York for a period of up to twelve (12) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of large scale battery energy storage system installations. The Town Board has formally requested the Building and Zoning Department and the Planning Board of the Town of York to identify and review local laws from other jurisdictions, and related information and source materials, in order to assist in developing the parameters of a local law to regulate large scale battery energy storage system installations. The Town Board has directed the Town Attorney to assist in this endeavor.

The Town Board also recognizes the need to review and examine its existing ordinances, local laws and Zoning Code provisions insofar as they may be affected by adoption of such local law(s) regulating the creation and/or siting of large scale battery energy storage system installations. It is deemed necessary to enact this moratorium in order to permit the Town adequate time in which to draft suitable legislation for this purpose. During the term of the moratorium the Town of York shall work to prepare and eventually adopt new land use regulations to incorporate into the Town's existing Zoning Ordinance.

At this time, there are no pending applications for the location, development or site plan approval of a large scale battery energy storage system installation.

During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape and to mitigate potential undesirable environmental and other impacts that may be associated with such use. At present, the Zoning Ordinance of the Town of York may not adequately regulate such land use. If the community allows such development during that time, the goals of the Town could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Ordinance of the Town of York, thus protecting and furthering the public interest, health and safety.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

Large Scale Battery Energy Storage System Installation(s) - Any installation of a rechargeable energy storage system having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the battery energy storage system into the power grid. Systems typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or other business on site and having an aggregate energy capacity of less than 600kWh shall not be considered a "Large Scale Battery Energy Storage System Installation" for purposes of this Moratorium.

SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, considered, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of York, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of York, for any Large Scale Battery Energy Storage System Installation, as defined above.
- B. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no person, entity or business shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of York for any Large Scale Battery Energy Storage System Installation, as defined above.
- C. The prohibitions set forth above in Clauses A. and B. of this Section 4. are not intended, and shall not be construed, to prevent or prohibit the use and development of battery energy storage systems that are typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities and that are for personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not have an aggregate energy capacity of 600kWh.
- D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for

this moratorium and prohibition no longer exists.

- E. This moratorium and prohibition shall apply to all real property within the Town of York, and all land use applications for the siting or creation of Large Scale Battery Energy Storage System Installation within the Town of York.
- F. Under no circumstances shall the failure of the Town Board of the Town of York, the Zoning Board of Appeals of the Town of York, the Planning Board of the Town of York, or the Code Enforcement Officer for the Town of York, to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or any other Town-level approval related to a Large Scale Battery Energy Storage System Installation constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this Local Law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer exclusive variance authority to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other areas of environmental concern.
- B. The impact of the proposed application on the applicant's premises and upon the surrounding area.
- C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.
- D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of York.
- E. The written opinion of the Town of York Planning Board and the Town of York Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.

- F. Evidence specifying in detail describing the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.
- F. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of York Zoning Ordinance and the recommendations of the Comprehensive Plan.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee of \$500, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

SECTION 6. PENALTIES.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the

date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Zoning Ordinance provision.

SECTION 8. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 9. EFFECTIVE DATE.

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of YORK

Local Law No. 6 of the year 20 19

A local law Amending Section 618 of the Zoning Ordinance of the
(Insert Title)
Town of York which was established by Local Law #2
of 2018 and which Added Solar Energy Systems to
such Zoning Ordinance

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF YORK
LOCAL LAW NO. 6 OF THE YEAR 2019**

A Local Law Entitled “Amending Section 618 of the Zoning Ordinance of the Town of York which was established by Local Law No. 2 of 2018 and which Added Solar Energy Systems to such Zoning Ordinance.”

SECTION 1. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of York in a fashion that is consistent with the Comprehensive Plan of the Town of York. This Local Law regulates the development and use of land within the Town of York.

B. To these ends, this local law and the Section that it amends is designed to:

1. Enhance and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan so that the Town may realize its potential as a place to live and work, with the most beneficial and convenient relationships among the agricultural, commercial, industrial, and residential areas within the Town and with due consideration to the character of each district and its suitability for particular uses; and
2. Protect and manage the agricultural character of the Town

SECTION 2. CHANGE TO SECTION 618. B. Definitions.

A. The current Section 618. B. of the Town of York Zoning Ordinance is hereby modified and amended to include the following new definitions which shall read as follows:

***Landowner* – The titled owner(s) of the real property or properties upon which a Solar Energy System is sited or located.**

***Prime Farmland* - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water**

supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of York is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of York – Prime Farmland and Farmland of Statewide Importance."

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

Farmland of Statewide Importance – Land, designated as "Farmland of Statewide Importance" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Generally, this land includes areas of soils that nearly meet the requirements for prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some areas may produce as high a yield as prime farmland if conditions are favorable. Farmland of statewide importance may include tracts of land that have been designated for agriculture by State law.

A map showing Farmland of Statewide Importance within the Town of York is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of York – Prime Farmland and Farmland of Statewide Importance."

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

B. The current Section 618. B. of the Town of York Zoning Ordinance is hereby modified and amended such that the prior definition of "Solar Energy Equipment" shall be omitted in its entirety and superseded by the below new language which shall read as follows:

Solar Energy Equipment - Material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

SECTION 3. CHANGES TO SECTION 618. C. Zoning districts where allowed.

A. The current Section 618. C. (5) of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

- (5) Type 2 Solar Energy Systems are permitted in all zoning districts excepting as provided for in Section 618. C. (5) a., immediately below. All Type 2 Solar Energy Systems shall be subject to the requirements set forth in this Section, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Section 905. D. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.**

B. The current Section 618. C. (5) a. (i). of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

- (i). Any property which is listed on either the New York State or National Register of Historic Places.**

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

C. The current Section 618. C. (5) a. (ii). of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

- (ii). Any property located in the area that is bounded on the west by a line that runs parallel with and is 100 feet west of the west line of the Genesee Valley Greenway and is bounded on the east by the Genesee River, as such area is hereby deemed to be a scenic viewshed and which is a portion of the area that has previously been identified as a scenic viewshed pursuant to section 514 C. (6) of the Zoning Ordinance.**

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

D. The current Section 618. C. (5) a. of the Town of York Zoning Ordinance is hereby modified and amended to add a new subsection which shall be referred to as “Section 618. C. (5) a. (iii) and shall read as follows:

(iii). Any lands that are classified or designated as Prime Farmland or Farmland of Statewide Importance. Prohibition of development of Type 2 Solar Energy Systems on Prime Farmland and Farmland of Statewide Importance is consistent with the Town of York Comprehensive Plan, specifically, Chapter 2 – Plan Objectives and Goals, section B. 5., Chapter 4 – Future Land Use Plans, section B. 1., Chapter 5 – Recommendations, section C. Farmland Protection and Support of Agricultural Industry and Chapter 6 – Implementation, section C. Farmland Protection and Support of Agricultural Industry.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

E. The current Section 618. C. (5) c. of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

c. Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a written Decommissioning Plan in a form acceptable to the Planning Board shall be submitted as part of the application.

(i). The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and if the Applicant or subsequent owner of the improvements fails to do so, it shall be the responsibility of the Landowner upon which the Type 2 Solar Energy System is located to comply with the Decommissioning Plan.

- (ii). The Decommissioning Plan shall state that the obligations thereunder shall attach to the real property upon which the Type 2 Solar Energy System is located and bind future owners of the real property with regard to such obligations.**
- (iii). The Decommissioning Plan shall state that failure to comply with the requirements of the Decommissioning Plan as set forth in these regulations shall permit the Town to undertake appropriate decommissioning and removal of any Solar Panels and/or Solar Energy Equipment and to append or add the cost thereof to the real property tax bill for the real property upon which the Type 2 Solar Energy System was located.**
- (iv). The Decommissioning Plan shall run to the benefit of the Town of York and shall be signed by the Applicant and the Landowner and acknowledged in a fashion so that it can be recorded in the Office of the Livingston County Clerk and indexed against the real property upon which the Type 2 Solar Energy System is located.**
- (v). The executed Decommissioning Plan shall be recorded as an irrevocable deed restriction at the Office of the Livingston County Clerk and indexed against the property upon which the Type 2 Solar Energy System is located before a building permit may be issued for the construction of such improvements. All cost of recording the Decommissioning Plan shall be borne by Applicant. The intent of the above provision is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Type 2 Solar Energy System fails to do so.**
- (vi). The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor and approved by the Town Engineer. Cost estimations shall be made and provided to the Town for each year of the life expectancy of the Solar Energy System.**
- (vii). Prior to obtaining a building permit and as a condition to any Special Use Permit being issued, the Applicant must provide an irrevocable financial security bond or an irrevocable letter of credit in an amount acceptable to the Town with a rated lending institution (or other form of surety acceptable to the Town of York at its sole discretion) for the removal of the Type 2 Solar Energy System, with the Town of York as the designated assignee, which at minimum is equal to 110% of the estimated removal cost of the given year to which it applies.**

If the surety is not one which is annually renewed (such that the amount can be changed at the time of the annual renewal to reflect the increase in costs associated with removal), such bond, letter of credit or other surety shall provide for an automatic annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal so that such surety equals no less than 110% of the estimated cost of removal provided to the Town pursuant to section c. (vii). above.

Each year after a Type 2 Solar Energy System has been constructed, and no later than forty-five (45) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of York with written proof that the required financial security bond or letter of credit (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. Failure of Applicant or any successor owner of the Type 2 Solar Energy System to provide such annual update shall be grounds for revocation of any Special Use Permit granted pursuant to section 905. D.

F. The current Section 618. C. (5) d. of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

d. Special Use Permit and Site Plan Approval Standards.

- (i). Height. Type 2 Solar Energy Systems shall adhere to the height requirements of the underlying zoning district.**
- (ii). Setbacks. Type 2 Solar Energy System setbacks shall be a minimum of 100 feet from any right-of-way line of any roadway and all adjacent property lines, excepting that such Type 2 Solar Energy Systems shall be setback a minimum of 300 feet from the zoning district boundary of any area classified as Hamlet Residential Zoning District (HR) as enumerated on the Town Zoning Map and as regulated under section 402 of the Zoning Ordinance. Further, no Type 2 Solar Energy System, or any part thereof shall be located closer than 300 feet from any Dwelling, not including Accessory Buildings that are not Accessory Dwelling Units. All such setbacks shall be measured from the Solar Panels when they are oriented at lowest tilt.**
- (iii). Lot Size. Type 2 Solar Energy Systems shall be located on lots with a minimum lot size of 25 acres.**

- (iv). Lot Coverage. Type 2 Solar Energy System shall not exceed 80% coverage of the lot on which it is installed. The coverage area shall be determined by the area enclosed by the perimeter of the Solar Energy System at minimum tilt.**
- (v). Prohibition of Development on Prime Farmland and Farmland of Statewide Importance. Development of Type 2 Solar Energy Systems is not permitted on any property that is classified or designated as Prime Farmland or Farmland of Statewide Importance.**

For reference, see map styled "Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

- (vi). Recent Combination of Lots/Parcels. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Planning Board shall consider the lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of York within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent and owner of land from combining lands into larger parcels that would permit siting of larger Type 2 Solar Energy Systems on what would have otherwise been a lot that permitted a smaller Type 2 Solar Energy System with coverage as restricted herein.**
- (vii). Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts.**
- (viii). Number of Type 2 Solar Energy Systems allowed per Lot. Only one Type 2 Solar Energy System shall be allowed per Lot, regardless of Lot size.**
- (ix). Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.**
- (x). After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable**

codes and industry practices and has been constructed and is operating according to the design plans.

- (xi). **Compliance with regulatory agencies.** The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xii). **Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the system being proposed.**
- (xiii). **A single public hearing may be held for purposes of the Site Plan application and Special Use Permit application.**
- (xiv). **Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such statute) with the Town of York Planning Board and the Zoning Board of Appeals conducting a coordinated review.**
- (xv). **The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of York or other federal or state regulatory agencies. The York Town Planning Board may impose conditions on its approval of any Site Plan or Special Use Permit under this Article to enforce the standards referred to in this Article or to discharge its obligations under the State Environmental Quality Review Act.**
- (xvi). **Time limit on completion.** After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.

- (xvii). **General complaint process.** During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xviii). **Inspections.** Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or permit issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such unreimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.
- (xix). **If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects.**

G. The current Section 618. D. (6) of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

- (6) Payment in Lieu of Tax Agreement.** The owners or developers and Landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing

jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.

- a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.**
- b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.**
- c. The payment in lieu of tax agreement shall run to the benefit of the Town of York and be executed by the Applicant/developer as well as the Landowner(s) of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of York to enforce such agreement as against the owner of the real property and the real property.**
- d. At its sole discretion, the York Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the**

negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.

- e. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.**

SECTION 4. CHANGES TO SECTION 618. D. General regulations.

A. The current Section 618. D. of the Town of York Zoning Ordinance is hereby modified and amended such to include a new section 618. D. (7) which shall read as follows:

- (7) Community Benefit Contribution. The Town encourages owners, developers and/or landowners of the property upon which a Type 2 Solar Energy Systems is to be developed, to implement an appropriate community benefit contribution. Such a contribution is not mandatory, nor will failure to do so negatively impact an application or the granting of any approvals.**

SECTION 5. CHANGES TO SECTION 618. E. Abandonment and Decommissioning.

A. The current Section 618. E. (3) of the Town of York Zoning Ordinance is hereby modified and amended such that the prior language shall be omitted in its entirety and superseded by the below new language which shall read as follows:

- (3) Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed from a Lot and the Lot restored to its pre-development condition where the Special Use Permit or Site Plan approval has been revoked by the Town of York Planning Board, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days. In such an instance involving a Type 2 Solar Energy System, removal and restoration shall occur pursuant to the Decommissioning Plan associated with the Type 2 Solar Energy System.**
 - a. Removal and restoration shall commence within 60 days after written notice has been provided to the permit holder or owner of the Solar Energy System and the Landowner and removal and restoration shall be completed within 120 days of such notice.**
 - b. All such costs of removal shall be the responsibility of the permit holder, owner of the Solar Energy System and/or the Landowner. If the permit**

holder, owner of the Solar Energy System or Landowner do not dismantle and remove said Solar Energy System and properly restore the site as required herein, the Town Board may, after a hearing at which the permit holder Solar Energy System owner and Landowner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal and restoration onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

SECTION 6. SEVERABILITY.

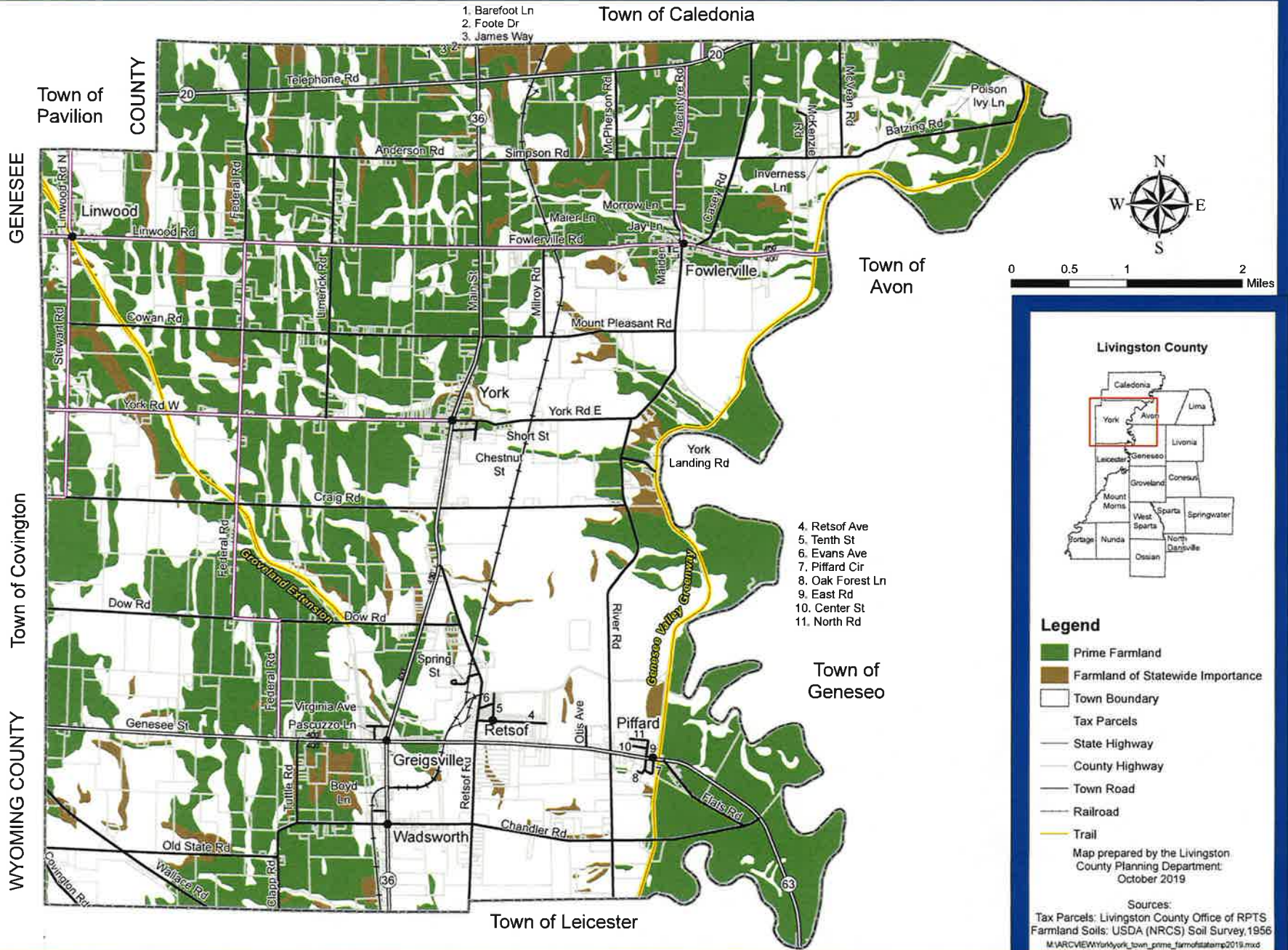
If any section, subsection, phrase, sentence or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 7. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

Town of York

Prime Farmland and Farmland of Statewide Importance: 2019



Town of York

Lands Not Excluded for Type 2 Solar

Livingston County



Land Where Type 2 Development NOT Excluded

- Prime Farmland
- Farmland of statewide importance
- Viewshed
- Historic Sites
- Setback Areas
- Tax Parcels: Less than 25 Acres
- Town Boundary
- Village Boundaries
- Tax Parcels
- State Highway
- County Highway
- Town Road
- Private Road
- Seasonal Road
- Railroads
- Trails

Sources:

Tax Parcels: Livingston County Office of RPTS
Historic Properties: NYSHPO
Farmland Soils: USDA (NRCS) Soil Survey 1956

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