

# VILLAGE OF PITTSFORD

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*Village Hall ca 1855 (remodeled 1937)*

## **Village of Pittsford Board of Trustees Meeting May 14, 2019, 5:30 PM**

### **Tentative Agenda**

#### **Board Member - Conflict of Interest Disclosure**

#### **Meeting Items**

1. Continuation of Review of Draft Code sections part 1, 3 and subdivision

Next Scheduled Meeting – May 28, 2019

\*Subject To Change Without Notice



# CHAPTER 212

## VILLAGE OF PITTSFORD SUBDIVISION CODE

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# VILLAGE

# SUBDIVISION CODE

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- ARTICLE 1: AUTHORITY & PURPOSE
- ARTICLE 2: APPLICATION & REVIEW PROCEDURES
- ARTICLE 3: PUBLIC HEARINGS
- ARTICLE 4: APPROVED SUBDIVISIONS
- ARTICLE 5: MINOR SUBDIVISIONS
- ARTICLE 6: MAJOR SUBDIVISIONS
- ARTICLE 7: GENERAL STANDARDS
- ARTICLE 8: ADMINISTRATION & ENFORCEMENT
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# ARTICLE 1

## AUTHORITY & PURPOSE

### § 212-1.1 LEGISLATIVE AUTHORITY

- A. By authority of resolution of the Village Trustees of Pittsford, Monroe County, New York, adopted on [insert adoption date] pursuant to Section 7-728 and other applicable provisions of Article 7 of NYS Village Law, the Planning Board of the Village of Pittsford is hereby authorized and empowered to review and approve subdivision plats.
- B. The Planning Board may review and approve plats showing lots, blocks, or sites, with or without streets or highways and entirely or partially undeveloped plats already filed in the Office of the Monroe County Clerk prior to the granting of such power to the Planning Board.
- C. Upon authorization of the Planning Board to approve plats the Village Clerk shall immediately file a certificate of that fact with the County Clerk.

### § 212-1.2 PURPOSE & INTENT

- A. **Purpose.** The purpose of the Village of Pittsford subdivision law is not only to provide for future growth and development, but also maintain the traditional appearance and physical character of the Village, its multi-modal transportation network, natural environment, and protect the general health safety and welfare of the public. The administration of this law shall be in accordance with the following objectives:
  1. Ensuring subdivisions properly provide quality facilities for housing and infrastructure, including all necessary utilities and services;
  2. Maintaining proper access and connectivity for pedestrians, bicyclists, and motorists and mitigating the potential negative impacts of increased traffic;
  3. Protecting the Village's historic character and traditional settlement pattern from suburban development pressures;
  4. Employing the application of clustering and land use conservation principles in subdivision proposals;
  5. Providing parks and open space in subdivisions for the betterment of resident quality of life and preservation of property values;
  6. Promoting the use of green infrastructure and sustainable design practices in subdivision proposals; and
  7. Considering the comfort, convenience, safety, health and welfare of the general population as future development opportunities are considered.
- B. **Intent.** It is declared to be the intent of this subdivision law to serve as part of a plan for orderly, efficient and economical development of the Village of Pittsford, in conjunction with the Village of Pittsford Zoning Code (Chapter 210). Land(s) to be subdivided shall:
  1. Be of such character with respect to layout and size of lots to complement the traditional character of the Village and be in harmony with the settlement pattern of neighboring properties;

2. Be of such character with respect to layout and size of lots so that it can be used safely for building purposes without danger to health, or peril of fire, flood, or other menace;
3. Make proper provisions for drainage, water supply, sewage, and other needed improvement and utilities;
4. Include streets of such width, grade, and location as to accommodate prospective traffic, facilitate fire protection, and provide access of emergency equipment to buildings while minimizing disruption to the natural environment;
5. Make proper provisions for leaving natural areas and corridors undeveloped to mitigate the adverse environmental impacts of subdivision, sustain a diverse population of native vegetation and wildlife, protect water resources (including the Erie Canal), and scenic views, and implement the Village's policies of protection of its environmental, historic, and economic resources pursuant to the Village of Pittsford Zoning Code; and
6. Conform to the land use and development recommendations within the Village's most current adopted Comprehensive Plan.

### § 212-1.3 APPLICABILITY OF LOCAL SUBDIVISION APPROVAL

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- A. No subdivision or lot line adjustment of any lot, tract, or parcel of land shall be effected and no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public or private use and travel, or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of these regulations.
- B. For re-subdivision, the same regulations shall apply as for a subdivision.

### § 212-1.4 CONFLICTS WITH OTHER LAWS

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In their interpretation and application, the provisions of this subdivision law shall be deemed minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Where these regulations may conflict with other local, regional, or state laws, ordinances, or regulations, the greater restriction shall govern.

### § 212-1.5 SELF-IMPOSED RESTRICTIONS

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Nothing in these regulations shall prohibit an applicant from placing self-imposed restrictions, not in violation of these regulations, on development. Such restrictions shall be indicted on the plat.

### § 212-1.6 SEVERABILITY

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If any provision of this subdivision law or the application thereof to any person, property, or circumstances is held to be invalid, the remainder of this subdivision law and the application of each provision to other persons, property, or circumstances shall not be affected thereby.

## ARTICLE 2

# APPLICATION & REVIEW PROCEDURES

### § 212-2.1 APPLICATION REQUIRED

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- A. Whenever any subdivision of land, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the applicant or his/her duly authorized agent shall apply for the approval of such subdivision in accordance with this Article.
- B. Applications under this subdivision law must be submitted in such form and numbers as outlined herein. The Village Clerk may provide checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required information may be made available in the Village Office.
- C. Applications for minor subdivisions, as defined in Article 5, are subject to a single-phase review and approval process. Approval of a minor subdivision is required for development to occur.
- D. Applications for major subdivisions, as defined in Article 6, are subject to a two-phase review and approval process. The applicant shall first submit a preliminary plat application for review and approval. Within one year preliminary plat approval, the applicant shall submit a final plat application for review. Final plat approval is required for development to occur.

### § 212-2.2 SKETCH PLAN PRE-APPLICATION CONFERENCE

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- A. It is recommended that applicants submit a sketch plan prior to entering the formal application review process to discuss the nature of the proposed application and to determine the best course of action for submittal.
- B. Sketch plan conferences may be held upon request of an applicant with the following Village representatives in attendance:
  - 1. Code Enforcement Officer;
  - 2. Village Clerk;
  - 3. Planning Board Chair;
  - 4. Historic Preservation Board Chair; and
  - 5. Two Village Trustees or One Trustee and the Mayor.
- C. The purpose of the sketch plan conference is to provide an opportunity for a potential applicant to consult early and informally with the Village. A sketch plan conference will help to build a better understanding of the proposal and property in question and establish an overall design approach that respects important features to the Village while maximizing the potential of the property.
- D. In no way shall any comments or feedback provided by the Village during sketch plan review be construed as an indication of decision or be legally binding in any way.

- E. Materials presented during the sketch plan conference may be incomplete and/or conceptual in design; however, a formal application is required to be considered for approval.

## § 212-2.3 GENERAL APPLICATION PROCEDURES

### A. Submittal.

1. Applications where required by this law shall be submitted to the Village Clerk.
2. Only the property owner or their agent, with legally binding and written permission of the owner, may file for subdivision. Where there are multiple land owners, a written consent agreement among all land owners must be included within the application.
3. At least six hard copies and one electronic copy of the required materials shall be provided.
4. Applications must be submitted to the Village Clerk at least two weeks prior to the Planning Board meeting at which the applicant wishes to be considered.

### B. Acceptance and Processing.

1. The Village Clerk shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required materials, and is accompanied by the required application fee.
2. The acceptance of an application by the Village Clerk shall in no way be interpreted as a determination of the completeness, adequacy, or accuracy of application materials, but rather serve as an acknowledgement to the receipt of required application materials. The Village Clerk may consult with other Village departments or divisions, the Code Enforcement Officer, the Planning Board, and/or the Village Trustees in making such a determination.
3. If an application is determined to be unacceptable, within 30 days of submittal the Village Clerk must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies that will prevent competent review. No further processing will occur until the deficiencies are corrected. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.
4. No further processing of unacceptable applications will occur; applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.

- C. **Application Fee.** All applications shall be accompanied by the fee established by the Village Trustees. Failure to submit said fee shall deem an application unacceptable, regardless of the status of submittal on all other required materials. This shall also include application consultant fees as established by Chapter 210, Section 18.5 (Consultant Fees).

- D. **Applicant Responsibilities.** The applicant and/or their agent is expected to attend all meetings of the Planning Board at which the application is to be discussed. In all cases, the burden is on the applicant to show that their application complies with this Chapter and all applicable review criteria.

- E. **Agricultural Data Statement.**

1. Any application for a property that is within an agricultural district containing a farm operation or property within 500 feet of a farm operation located in an agricultural district shall include an agricultural data statement.
2. Upon receipt of a subdivision application containing an agricultural data statement, the Village Clerk shall mail a copy of the agricultural data statement to the owners of the land identified by the applicant in the agricultural data statement.
3. The applicant may be required to reimburse the Village for such mailing upon written request.
4. For the purposes of this section an agricultural district shall be defined as an agricultural district recognized by the NYS Agriculture and Markets agricultural district program.

## § 212-2.4 REFERRALS

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- A. **Internal Referral.** The reviewing board may refer any application to another Village board, committee, department, or official for review and comment. Within 30 days of referral the receiving board or official shall submit its recommendation in writing with a summary of findings to the reviewing board.
- B. **Professional Referral.** The Planning Board may seek the opinion of any legal, engineering, design, or other professional to aid in the review of an application at the expense of the applicant. The fees shall be determined as outlined in Chapter 210 Section 18.5 of the Village Code.
- C. **County Referral.** The Village shall refer all materials to the Monroe County Planning Department pursuant to NYS GML 239-n, as amended and in accordance with planning referral agreements between the Village and Monroe County.

## § 212-2.5 PLANNING BOARD ACTION

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- A. **Issuance of Decision.** Within 62 days following the close of public hearing, the Planning Board must issue a decision by majority vote. The Planning Board may vote to approve or conditionally approve, approve or conditionally approve with modifications, or deny the proposed subdivision application.
- B. **Conditional Approval.** The Planning Board may grant conditional approval with or without modification to the plat. A conditional decision shall be filed in the same manner as outlined in Article 4. The copy mailed to the applicant shall include a statement of such conditions. The Planning Board Chair shall not sign the plat until it is certified by the Code Enforcement Officer that the applicant has complied with all conditions.
- C. **Default Approval.** In the event the Planning Board fails to act on a subdivision application within the time prescribed herein, or such extended period established by the mutual consent of the applicant and the Planning Board, the subdivision application shall be deemed approved, and a certificate of approval shall be issued by the Village Clerk on demand and shall be sufficient in lieu of written endorsement of other evidence of approval herein required.
- D. **Written Findings.** Decisions shall contain written findings explaining the rationale for the action taken by the Planning Board with respect to the standards

contained in this subdivision law. A copy of the decision shall be immediately filed in the Village Clerk's Office and mailed to the applicant.

## § 212-2.6 COMPLETE APPLICATIONS

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- A. No subdivision application shall be considered complete until all required application materials are submitted with accompanying fee in the required number and form, and the lead agency has filed a negative declaration, conditioned negative declaration, or notice of completion of a Draft Environmental Impact Statement (DEIS) in accordance with the provisions of SEQRA.
- B. The required time periods for public hearing and review of a minor, preliminary, or final plat set by NYS Village Law Section 7-728 shall only begin upon receipt of a complete application as defined herein.

## § 212-2.7 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

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- A. The review and approval of all subdivision applications shall comply with the provisions of SEQRA under Article 8 of the Environmental Conservation Law and its implementing regulations. Where requirements of this Chapter may come in conflict with SEQRA law, the state regulations shall supersede.
- B. If the lead agency on a subdivision application, through the completion of an Environmental Assessment Form (EAF), determines an action not to have a significant adverse environmental impact, a negative declaration is filed. If an action is determined to potentially have significant adverse environmental impacts, a Draft and Final Environmental Impact Statement (EIS) is required.
- C. Applicants are responsible for preparing the Draft and Final EIS, if required. Should the applicant defer to the Planning Board for the preparation of a Draft and/or Final EIS, a written agreement for reimbursement to the Village for such expense shall be required.
- D. When required, the public hearing for an EIS may be held jointly with the subdivision application public hearing. However, public notice in this case must increase to at least 14 days prior to the date of the scheduled hearing.
- E. When actions consist of several steps or phases of activities, the entire set must be considered the action, even if several separate agencies are involved.



# ARTICLE 3

## PUBLIC HEARINGS

### § 212-3.1 CONDUCTING PUBLIC HEARINGS

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- A. Public hearings shall be held by the Planning Board for all subdivision applications, except for lot line adjustments.
- B. The Planning Board may review multiple applications (e.g. subdivision and site plan review) for a single property or use concurrently and may conduct concurrent or joint public hearings, if desired.
- C. Within 62 days from the date of receipt of a complete application, the Planning Board must convene a public hearing on the application in question.

### § 212-3.2 PUBLIC NOTICE REQUIRED

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- A. All public notices shall be made at least 10 days prior to the date of the scheduled public hearing.
- B. Public notice shall include mailed notices, media notices, and posted notices in accordance with NYS Village Law.

### § 212-3.3 MAILED NOTICES

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The Village Clerk shall provide public notice to the following by mail:

- A. Owners of all real property as shown on the current tax map, located within 300 feet of the property that is the subject of the hearing.
- B. The Clerks of adjoining municipalities whose boundaries are located within 500 feet of the property that is the subject of the hearing.
- C. The Monroe County Planning Department where the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land, or situated within 500 feet of a municipal boundary.
- D. The State Commissions of Transportation where the hearing concerns an application for development of property within 500 feet of a state highway.

### § 212-3.4 MEDIA NOTICES

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The Village Clerk shall cause for public notice to be posted to the following media sources:

- A. The official newspaper of the Village; and
- B. The official website and/or social media pages of the Village.

**§ 212-3.5 POSTED NOTICES**

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- A. The Village Clerk shall post a public notice in a location plainly visible within the Village Office.
- B. The applicant shall obtain a sign of public notice from the Village and ensure its placement on the property in question in a manner that is plainly visible to passers-by. Upon close of the public hearing, the applicant shall return the sign to the Village Office.

**§ 212-3.6 PUBLIC NOTICE EXPENSES**

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An applicant may be required to reimburse the Village for the mailing and posting of a public notice upon written request. If said fee is not received within 62 days of the request, the application shall be considered withdrawn and any decision rendered shall be null and void.

**§ 212-3.7 PUBLIC NOTICE CONTENT**

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The content of all public notices, except notices posted on the property by a Village commissioned sign, shall:

- A. Indicate the date, time, and place of the public hearing or date of action that is the subject of the notice;
- B. Describe any property involved in the application by street address or general description;
- C. Describe the general nature, scope, and purpose of the application or proposal; and
- D. Indicate where additional information on the matter can be obtained.

# ARTICLE 4

## APPROVED SUBDIVISIONS

### § 212-4.1 FILING OF APPROVED SUBDIVISION

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- A. Upon approval by the Planning Board a notation shall be made upon the subdivision plat indicating approval and any modifications or conditions.
- B. A copy of the approval and any modifications or conditions shall be immediately filed in the Village Clerk's Office and mailed to the applicant.
- C. The annotated plat shall be deemed to have final approval when duly signed by the Planning Board Chair and filed by the applicant in the Office of the Monroe County Clerk.
- D. Any subdivision plat not filed by the applicant with the County Clerk within 62 days of the date approval shall become null and void.

### § 212-4.2 EXPIRATION & REVOCATION OF APPROVAL

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- A. **Expiration.** The approval of a subdivision application shall expire if at least one of the following occur:
  - 1. The applicant fails to submit for final plat approval within one year of the preliminary plat approval date;
  - 2. The applicant fails to complete and have certified all conditions of plat approval within one year of the approval date;
  - 3. The applicant fails to obtain necessary building and/or zoning permits within one year of the final plat approval date;
  - 4. The applicant fails to initiate construction, if applicable, within one year of the final plat approval date; or
  - 5. The applicant fails to complete construction, if applicable, within three years of obtaining the necessary building permits.
- B. **Extensions.** The Planning Board may grant an extension for any condition in Subsection A upon written request by the applicant. The applicant shall include in such request the desired time period for the extension, not to exceed one year, and the reasoning for requesting the extension.
- C. **Revocation.** The Planning Board may revoke approval if it is found that the applicant violates the conditions of the approval or engages in any construction or alteration not authorized by the approval.
- D. **Enforcement.** Any violation of the conditions of subdivision approval shall be deemed a violation of this law, and shall be subject to enforcement action as provided herein.

### § 212-4.3 PERFORMANCE GUARANTEES FOR REQUIRED IMPROVEMENTS

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- A. Where required by the Planning Board, the applicant shall either file with the Village Clerk a certified check or irrevocable letter of credit to cover the full cost of required improvements, or a performance bond to cover the full cost of the required improvements. Any such bond shall:
  - 1. Comply with the requirements of Section 7-728 of NYS Village Law;
  - 2. Be satisfactory to the Village Trustees as to form, sufficiency, manner of execution, and surety.
  - 3. Identify a period of not less than one and no more than three years that the Planning Board deems appropriate within which required improvements must be completed.
- B. The applicant shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the applicant shall file with the Village Clerk a performance bond or certified check covering the costs of such improvements and installations of any improvements not satisfactorily approved by the Code Enforcement Officer.

#### § 212-4.4 PROPER INSTALLATION OF IMPROVEMENTS

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- A. If the Code Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, a report identifying the noncompliance shall be submitted to the Village Trustees and Planning Board.
- B. The Village Clerk shall notify the applicant and if necessary, the bonding company, and take all necessary steps to preserve the Village's rights under the performance bond.
- C. No subsequent subdivision application shall be reviewed and/or approved by the Planning Board if the applicant is in default on a previously approved plat.

#### § 212-4.5 PLAT VOID IF REVISED AFTER APPROVAL

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- A. No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and such modifications are approved in accordance with this law.
- B. If any subdivision plat is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

#### § 212-4.6 SUBDIVISION ABANDONMENT

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The owner of an approved subdivision may abandon such subdivision pursuant to the provisions of Section 560 of New York State Real Property Tax Law.

# ARTICLE 5

## MINOR SUBDIVISIONS

### § 212-5.1 APPLICABILITY

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- A. A minor subdivision shall contain no more than three lots with access to a common driveway or street and shall not involve the construction of new streets or extension of municipal utilities.
- B. A period of 12 consecutive months shall pass before the Planning Board will accept and review a minor subdivision application for property adjacent to a previously approved minor subdivision under the same ownership.
- C. Lot line adjustments shall be considered minor subdivisions under this law and subject to the same application and review procedures. The Planning Board is not required, however, to hold a public hearing on lot line adjustments, but may elect to do so if deemed appropriate.
- D. Approval of a minor subdivision plat shall constitute final plat approval.

### § 212-5.2 APPLICATION REQUIREMENTS

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An application for minor subdivision shall include the following materials, as applicable. A licensed professional engineer or land surveyor shall prepare all plat materials unless otherwise approved by the Planning Board.

- A. Village of Pittsford subdivision application form, including the name and address of the applicant, owner of record, and seal(s) of the engineer or surveyor who prepared the plat materials.
- B. A minor subdivision plat drawn at a scale of forty feet to the inch (1" = 40') or such other scale as the Planning Board may deem appropriate, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
- C. A certified land survey showing the boundaries of the applicant's property under consideration in its current state plotted to scale with the north point, scale, and date clearly indicated.
- D. A minor subdivision plat shall indicate at a minimum, the following:
  1. Date, north point, map scale, name and address of record owner and applicant. The proposed subdivision name and location within the Village of Pittsford and Monroe County shall also be included.
  2. The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property as disclosed by the most recent municipal tax records.
  3. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
  4. The tax map sheet, block and lot numbers, if available.
  5. All the utilities available within 300 feet of the property, and all streets which are mapped or built.

6. The proposed pattern of lots (including lot width and depth) within the subdivided area, the total permitted lot count for the entire tract based upon the density standards in the Zoning Code and the number of lots created by the plat.
  7. All existing restrictions on the use of the land including easements, covenants, or land use regulatory boundary lines.
  8. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearing and distances, made on certified by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by monuments as approved by the Village's Code Enforcement Officer, and shall be referenced and shown on the plat.
  9. All existing structures, wooded areas, streams, topography based on available USGS quadrangle maps and other significant physical features within the subdivision and 200 feet thereof.
- E. All proposed on site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and Monroe County Health Department, and a letter to this effect issued from each applicable department shall be supplied.
  - F. Any application for a subdivision plat located in or the property line of which is within 500 feet of a County-adopted, State certified agricultural district shall submit an agricultural data statement along with any other required submittals to assist the Planning Board in its review. Notice shall be sent to applicable property owners and the content of the agricultural data statement shall conform to the Agricultural and Markets Law Article 25-AA, Section 305-a.
  - G. A copy of such covenants or deed restrictions as is intended to cover all or part of the tract.
  - H. All New York State SEQR documentation as required by law.
  - I. Any other information as requested by the Planning Board to conduct an informed review.
  - J. The Planning Board may waive any application requirement that is deemed to be unnecessary for review of the proposed subdivision. The waiver of application requirements shall be noted in the formal resolution by the Board certifying the application as complete.

# ARTICLE 6

## MAJOR SUBDIVISIONS

### § 212-6.1 APPLICABILITY

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- A. The application for a major subdivision shall include all subdivisions not classified as a minor subdivision, including, but not limited to, subdivisions of four or more lots, or any size subdivision requiring new streets or extension of municipal utilities.
- B. Major subdivisions require two stages of review and approval. The applicant shall first submit a preliminary plat for review and approval per Section 212-6.2. Within six months of approval of the preliminary plat, the applicant shall submit a final plat in accordance with Section 212-6.4 incorporating all changes or modifications required by the Planning Board.

### § 212-6.2 PRELIMINARY PLAT APPLICATION

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A preliminary plat application for a major subdivision shall include the following materials, as applicable. A licensed professional engineer or land surveyor shall prepare all plat materials unless otherwise approved by the Planning Board.

- A. All minor subdivision application requirements as listed in Article 5 of this law.
- B. Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, and other significant existing features for the proposed subdivision and adjacent property.
- C. Contours with intervals of 10 feet or less as required by the Planning Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two feet.
- D. The width and location of any streets or public ways or places shown on the Village's Official Map within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed.
- E. The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction flow.
- F. The approximate location and size of all proposed water lines, valves, hydrants, and sewer lines and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the NYS Public Health Law. Profiles of all proposed water and sewer lines are also required.
- G. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles and connection to existing lines or alternate means of disposal.
- H. Plans and cross-sections showing the proposed location and type of sidewalks, lighting, street trees, curbs, water mains, sanitary sewers, storm drains, the character, width and depth of pavements and sub-base, and the location of manholes, basins and underground conduits.

- I. Preliminary designs of any bridges or culverts which may be required.
- J. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- K. If the preliminary plat application covers only a part of the applicant's entire holding, a map of the entire tract, drawn at a scale of not less than 40 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract. The part of the applicant's entire holding submitted shall be considered in the light of the entire holdings.

### § 212-6.3 FINAL PLAT SUBMITTAL TIME RESTRICTION

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- A. Within six months of the approval of preliminary plat the owner shall file with the Planning Board an application for approval of the subdivision plat in final form, including the completion of any modifications provided with the approval of the preliminary plat.
- B. If the final plat is not submitted within six months of the approval of the preliminary plat, the Planning Board may revoke the approval of the preliminary plat or grant an extension for periods of 90 days at a time upon written request of the applicant stating such reasons for an extension.

### § 212-6.4 FINAL PLAT APPLICATION

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A final plat application for a major subdivision shall include the following materials, as applicable. A licensed professional engineer or land surveyor shall prepare all plat materials unless otherwise approved by the Planning Board.

- A. All major subdivision preliminary plat application requirements as listed in Section 212-6.2.
- B. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearing shall be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true north point.
- C. The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made thereof. All offers of cession and covenants governing the maintenance of unseeded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
- D. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Village practice.
- E. A stormwater pollution prevention plan (SWPPP) in conformance with the requirements of the NYS Department of Environmental Conservation (NYSDEC) technical standards and the State Pollution Discharge Elimination System (SPDES) Permit requirements. Additional information can be obtained from the NYSDEC Division of Environmental Permits.



- F. Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities.
- G. Sufficient data to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground shall be provided. Permanent reference monuments shall be shown. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the New York State Department of Public Works. Their location shall be noted and referenced upon the plat.

# ARTICLE 7

## GENERAL STANDARDS

### § 212-7.1 PRESERVATION OF EXISTING FEATURES

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- A. Existing features which are important to the natural, scenic, and historic character of the Village or which add value to residential development such as large trees or groves, watercourses and falls, wetlands, historic sites, vistas, scenic corridors, and similar irreplaceable assets shall be preserved, insofar as possible, through harmonious designs of subdivisions.
- B. The Planning Board may impose restrictions designed to preserve such features, including the limitation of structures to designated building envelopes or the delineation of areas where building or site alternation is prohibited, as a condition of subdivision approval.
- C. When final grades have been established and construction activities have been completed, the property shall be suitably graded, and to the extent practicable, recovered with topsoil except that portion of the site covered by buildings or included in the roads.

### § 212-7.2 DRAINAGE IMPROVEMENTS

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- A. **Stormwater Run-off.** Subdivisions shall be designed to minimize off site stormwater run-off by minimizing grading, cutting, and filling, by minimizing the use of impermeable surface materials on roads, driveways, and other improved area, by retaining existing vegetation, by using gently sloped vegetated swales, and by employing other non-structural or structural measures including retention or detention basins. The objective of such measures shall be to maintain or improve pre-development drainage conditions.
- B. **Drainage Structure to Accommodate Potential Development Upstream.** A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The applicant's engineer shall review the design and size of such facilities, based on anticipated runoff from a 10-year storm under conditions of total potential development permitted by Village Zoning Code.
- C. **Responsibility from Drainage Downstream.** The applicant's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Village Trustees of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

### § 212-7.3 VIEWSHEDS, OPEN SPACES & PARKLANDS

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- A. The Planning Board may require the modification of subdivision applications for the preservation of significant viewsheds as identified in adopted local plans and studies, as well as the Village's historic building and site inventory.
- B. The Planning Board may require that the applicant reserve natural areas, open spaces, and environmentally sensitive or significant areas as part of the subdivision plat.
- C. The Planning Board may require that the applicant reserve sites of a character, extent, and location suitable for the development of a park, playground, or other recreational purpose. The area to be preserved shall possess the suitable topography, general character, and adequate road access necessary for its recreational purposes.
- D. Where the Planning Board requires land to be set aside for parks, playgrounds, or other recreational purposes, they may also require that the site be graded, loamed, seeded and/or fenced.
- E. Unless otherwise approved by the Planning Board, the reservation of open space, parkland, and/or natural features shall be at least 20% of the total land area within the subdivision.

#### § 212-7.4 LOTS TO BE BUILDABLE

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- A. The lot arrangement shall be such that buildable land area is available for future development in conformance with the Village of Pittsford Zoning Code (Chapter 210).
- B. No subdivision shall be permitted where, at the request of the Planning Board, the applicant fails to prove the existence of sufficient buildable land area for the proposed development. It shall be the responsibility of the applicant to obtain the information necessary to determine the size and adequacy of the buildable land area of a lot, including, but not limited to environmental surveys and assessments.

#### § 212-7.5 UNDEVELOPED SUBDIVISIONS

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The Village Clerk may contact by mail the property owners(s) of undeveloped subdivisions within the Village of Pittsford on file with the Office of the County Clerk at the time of enactment of this law to inform them of the Planning Board's subdivision review authority. Said contact may also include an invitation to meet and discuss with the Planning Board the possible redesign and resubmittal of their subdivision in accordance with the standards and requirements of this law and NYS Village Law Section 7-728.

# ARTICLE 8

## ADMINISTRATION & ENFORCEMENT

### § 212-8.1 ADMINISTRATION & ENFORCEMENT

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- A. **Administration.** This law shall be administered by the Clerk, Code Enforcement Officer, Planning Board, and Board of Trustees of the Village of Pittsford, as described herein.
- B. **Enforcement.** These regulations shall be enforced by the Code Enforcement Officer of the Village of Pittsford.

### § 212-8.2 VARIANCES & WAIVERS

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- A. **Variations.** Where the Planning Board finds that extraordinary and unnecessary hardships result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided such variations will not have the effect of nullifying the intent and purpose of the Official Map, Comprehensive Plan, or Village Zoning Code, if such exists.
- B. **Waivers.** Where the Planning Board finds that, due to the special circumstances of a plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.
- C. **Conditions on Variations and Waivers.** In granting variations and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

### § 212-8.3 VIOLATION & PENALTIES

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Pursuant to Article 16 of NYS Village Law, a violation of these regulations is declared to be a misdemeanor and is punishable by a fine not exceeding 500 dollars or imprisonment for a period not to exceed six months, or both. Each month of continued violation shall constitute a separate violation.

### § 212-8.4 APPEALS

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- A. Any person aggrieved by a decision of the Code Enforcement Officer or other administrative official may apply to the Zoning Board of Appeals as provided for in Chapter 210 of the Village Code.
- B. Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules.

# ARTICLE 9

## DEFINITIONS

### § 212-9.1 WORD USAGE & INTERPRETATION

Except where specifically defined herein, all words used in this law shall carry their customary meanings. Words used in the present tense shall include the future tense, and the plural includes the singular, unless the natural construction of the term indicates otherwise.

- A. The term "shall" is mandatory and directory.
- B. The term "may" is permissive.
- C. The term "lot" includes the words "plot," "parcel," "tract," or "site."
- D. The term "building" includes the word "structure."
- E. When doubts arise as to meanings of terms, the Village of Pittsford Code Enforcement Officer shall define or make the interpretation of words, phrases, sentences and sections of this law.

### § 212-9.2 DEFINITIONS

For the purposes of this law, the following words and terms shall be defined as provided herein:

**CODE ENFORCEMENT OFFICER** — The duly designated Code Enforcement Officer of the Village of Pittsford, New York, to enforce the provisions of the New York State Uniform Fire Prevention and Building Code in the Village.

**CONDITIONAL APPROVAL** — Approval by the Planning Board of a plat subject to conditions set forth by the Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by the Planning Board Chair and recording of the plat in the office of the County Clerk as herein provided.

**COUNTY CLERK** — The elected official to the position of Clerk for Monroe County New York.

**DRIVEWAY** — A road providing a means of access from a street to a property or off-street parking area. A "common driveway" shall mean a single road providing a means of access from a street to two or more properties or off-street parking areas.

**EASEMENT** — The authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

**ENGINEER OR LICENSED PROFESSIONAL ENGINEER** — A person licensed as a professional engineer by the State of New York.

**FINAL PLAT** — A drawing prepared in a manner prescribed by this law that shows a proposed subdivision, containing in such additional detail as required by this law, and

any modifications required by the Planning Board at the time of approval of the preliminary plat.

**FINAL PLAT APPROVAL** — The signing of a plat in final form by the Planning Board Chair pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

**LOT LINE ADJUSTMENT** — A relocation of lot lines between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created.

**MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of four or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

**MINOR SUBDIVISION** — Any subdivision containing not more than three lots fronting on an existing street, not involving the construction of any new street or road or the extension of municipal facilities. Lot line adjustments shall also be considered minor subdivisions under this law.

**NYSDEC** — The Department of Environmental Conservation of the State of New York.

**OFFICIAL MAP** — The map which may be established by the Village Trustees pursuant to NYS Village Law, showing streets, highways, parcels, and parks.

**PLANNING BOARD** — The Planning Board of the Village of Pittsford, New York.

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, topography and drainage, all proposed facilities un-sized, including preliminary plans and profiles, at suitable scale and in such detail as required by this law.

**PRELIMINARY PLAT APPROVAL** — The approval of the layout of a proposed subdivision as set forth in a preliminary plat, but subject to the approval of the plat in final form in accordance with the provisions of this law.

**SEQRA** — The State Environmental Quality Review Act of the State of New York.

**SUBDIVISION** — The division of any parcel of land into two or more lots, blocks, or sites, with or without streets or highways, including re-subdivision and lot line adjustments.

**SURVEYOR** — A person licensed as a land surveyor by the State of New York.

**VILLAGE TRUSTEES** — The Board of Trustees of the Village of Pittsford, New York.

**UNDEVELOPED SUBDIVISION** — Those subdivisions existing at the time of the enactment of this law that have been filed in the Office of the County Clerk of which twenty percent (20%) or more of the lots within the plat are unimproved, unless existing conditions such as poor drainage, have prevented their development.



# CHAPTER 210

## VILLAGE OF PITTSFORD ZONING CODE

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# PART 1

# ADMINISTRATION & ENFORCEMENT

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- ARTICLE 10: ESTABLISHMENT & APPLICABILITY
- ARTICLE 11: ZONING MAP
- ARTICLE 12: CODE ENFORCEMENT OFFICER
- ARTICLE 13: VILLAGE BOARD OF TRUSTEES
- ARTICLE 14: HISTORIC PRESERVATION REVIEW BOARD
- ARTICLE 15: PLANNING BOARD
- ARTICLE 16: ZONING BOARD OF APPEALS
- ARTICLE 17: NONCONFORMING USES & STRUCTURES
- ARTICLE 18: PENALTIES & FEES

# ARTICLE 10

## ESTABLISHMENT & APPLICABILITY

### § 210-10.1 ESTABLISHMENT

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The Board of Trustees of the Village of Pittsford hereby enacts and publishes the following Chapter establishing zoning regulations for the Village and providing for the enactment, administration, and amendment thereof pursuant to the provisions of NYS Village Law, Article 7.

### § 210-10.2 TITLE

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This Chapter shall be known as the "Zoning Law of the Village of Pittsford, Monroe County, New York." For convenience, it is also referred to throughout this Chapter as the "zoning law" or "zoning code."

### § 210-10.3 PURPOSE

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The provisions of this Chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare and the conservation of property values throughout the Village of Pittsford. These provisions are intended to provide for adequate light, air and convenience of access, to secure safety from fire and other hazards and to prevent undue concentration of population by regulating and limiting the height and bulk of buildings, limiting and specifying the size of yards, courts and other open spaces, controlling the density of population and regulating and restricting the location of trades, industries and buildings designed for a specific use.

### § 210-10.4 APPLICABILITY

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- A. This Chapter shall be in effect immediately upon adoption and publication as provided by NYS Village Law.
- B. Zoning affects every structure and use. Except as hereinafter provided, no building, structure or premises shall be used or occupied, and no building or structure shall be erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein.

### § 210-10.5 CONFLICT WITH OTHER REGULATIONS

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- A. In their interpretation and application, the provisions of this Chapter, shall be held to be the minimum requirements adopted for the promotion of the public health, community values, safety or other general welfare. Whenever the requirements of this Chapter are at variance with the requirements of any other applicable law, ordinance, regulation or private agreement, the most restrictive, or that imposing the higher standards, shall govern.



- B. The Village does not enforce or maintain a record of private agreements. This zoning law is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning law impose a greater restriction than imposed by a private agreement, the provisions of this zoning law will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this zoning law, the provisions of the private agreement will control.

## § 210-10.6 TRANSITIONAL PROVISIONS

- A. **Applications Prior to Effective Date.** Accepted applications that were submitted in complete form and are pending approval before the effective date of this Chapter will be reviewed wholly under the terms of the zoning law in effect immediately before the effective date, unless a formal written request is submitted in writing by the applicant requesting review under this zoning law. The applicant's request for this zoning law to be applied, once submitted, may not be changed.
- B. **Permits Granted Prior to Effective Date.** Any building, development or structure for which a building permit was issued before the effective date of this Chapter may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning law. If building is not commenced and diligently pursued within the time allowed under the original permit or any extension granted, then the building, development or structure must be constructed, completed and occupied only in strict compliance with the standards of this zoning law.
- C. **Continuance of Violations.** Any violation of the previous zoning law will continue to be a violation under this zoning law and be subject to penalties and enforcement under NYS Village Law. If the use, development, construction or other activity that was a violation under the previous law complies with the express terms of this zoning law, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this Chapter. The adoption of this zoning law does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous law that occurred before the effective date of this Chapter.
- D. **Continuing Nonconformities.** Any nonconformity under the previous zoning law will also be nonconformity under this zoning law, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning law, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

# ARTICLE 11

## ZONING MAP

### § 210-11.1 OFFICIAL ZONING MAP ESTABLISHED

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- A. The zoning districts of this Chapter are bounded and defined as shown on a map entitled the "Official Zoning Map of the Village of Pittsford," bearing the date of adoption of this Chapter and as revised from time to time. For convenience the Official Zoning Map of the Village may also be referred to as the "zoning map."
- B. The zoning map is hereby established, adopted, and incorporated into this Chapter and shall be as much a part hereof as if fully set forth and described herein.

### § 210-11.2 KEEPING OF THE MAP

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- A. The Village Clerk shall maintain the zoning map and file all amendments thereto with Monroe County and NYS as required by NYS Village Law.
- B. A copy of the zoning map indicating the latest amendments shall be kept in the offices of the Village Clerk for the use and benefit of the public.

### § 210-11.3 DISTRICT BOUNDARIES

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- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way, or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. In all cases where a district boundary line is located not farther than 10 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- D. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the Code Enforcement Officer through the application of a graphic scale or other such instrument of measurement.

### § 210-11.4 NYS CANAL LANDS EXCLUDED

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Land in the Village owned by the State of New York and a part of the Barge Canal System shall not be included in computing zoning setbacks or land area by landowners in the Village. This prohibition applies even though a said landowner has a use or occupancy permit from the State of New York.

# ARTICLE 12

## BUILDING & CODE ENFORCEMENT

### § 210-12.1 OFFICE OF CODE ENFORCEMENT

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- A. The Office of Code Enforcement of the Village of Pittsford is hereby established for the purposes of enforcing this Chapter, the Village Code, local laws adopted by the Village Board of Trustees, the NYS Uniform Fire Prevention and Building Code, and any other applicable local, county, state, or federal laws and regulations.
- B. The Village Trustees may appoint officers and inspectors to the Office of Code Enforcement to assist with the exercise of powers and fulfillment of duties conferred upon the Office by this Chapter and NYS Law.
- C. The compensation for the employees of the Office of Code Enforcement shall be set from time to time by the Village Trustees.

### § 210-12.2 BUILDING INSPECTOR

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- A. **Appointment.** The position of Building Inspector shall be subject to appointment by the Village Trustees as provided for by NYS Village Law.
- B. **Certification.** The Building Inspector shall possess background experience related to building construction and/or fire prevention and shall obtain training as required by the State of New York for building code enforcement personnel. The Building Inspector shall also obtain certification from the NYS Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- C. **Powers and Duties.** The Building Inspector shall be responsible for the administration and enforcement of the NYS Building Code and the regulations contained therein. Powers and duties of the Building Inspector shall include:
  - 1. Receiving, reviewing, and approving or disapproving applications for Building Permits or Certificates of Occupancy, and the plans, specifications, and documents submitted therewith;
  - 2. Issuing Building Permits and Certificates of Occupancy upon approval and certification of conformance with this Chapter;
  - 3. Issuing written notices to property owners in violation of the NYS Building Code;
  - 4. Conducting construction inspections, inspections prior to the issuance of Certificates of Occupancy, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted by this Chapter and the NYS Building Code;
  - 5. Issuing Stop Work Orders;
  - 6. Maintaining records;
  - 7. Reviewing and investigating complaints;
  - 8. Pursuing and participating in enforcement actions and proceedings; and
  - 9. Exercising all other powers and fulfill all other duties conferred upon the Building Inspector by this Chapter, the Village Trustees, the Village Code, or NYS Village Law.

### § 210-12.3 CODE ENFORCEMENT OFFICER

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- A. **Appointment.** The position of CEO shall be subject to appointment by the Village Trustees as provided for by NYS Village Law.
- B. **Certification.** The CEO shall possess background experience related to building construction and zoning regulation and shall obtain training as required by the State of New York for code enforcement personnel. The CEO shall also obtain certification from the NYS Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- C. **Powers & Duties.** The CEO shall be responsible for the administration and enforcement of this Chapter and the regulations contained herein. Powers and duties of the CEO shall include:
  - 1. Accepting applications as outlined in Article 40 of this Chapter;
  - 2. Issuing certificates of zoning compliance upon approval and verification of conformance with this Chapter;
  - 3. Issuing written notices to property owners in violation of this Chapter;
  - 4. Conducting inspections of property for the purposes of verifying conformance with this Chapter;
  - 5. Pursuing and participating in enforcement actions and proceedings; and
  - 6. Exercising all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Chapter, the Village Trustees, the Village Code, or NYS Village Law.

### § 210-12.4 PROPERTY INSPECTIONS

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- A. The CEO and Building Inspector are empowered to cause any building, structure, or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist in violation of any local, county, state, or federal law or regulation.
- B. After any such order has been served, no work shall proceed on any building, structure, or tract of land covered by such order except to correct the violation or to comply with such order.

# ARTICLE 13

## VILLAGE BOARD OF TRUSTEES

### § 210-13.1 ESTABLISHMENT

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The establishment of the Village of Pittsford Board of Trustees (Village Trustees) is provided for in Chapter 28 of the Village Code. Where noted in this Chapter, the Village Trustees shall have full authority to administer and enforce this zoning law.

### § 210-13.2 CONDUCT

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As administrators and enforcers of this Chapter, the Village Trustees may:

- A. Adopt rules for the conduct of its business consistent with statute and this Chapter.
- B. Appoint clerks or other employees serving at its pleasure. The Village Trustees may also appoint clerks or other employees to serve at the pleasure of the Historic Preservation Review Board, Planning Board, or Zoning Board of Appeals.
- C. Seek recommendations from other local boards, commissions, agencies, or officials as it deems appropriate to assist in the administration of this Chapter.

### § 210-13.3 MEETINGS & MINUTES

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- A. The Village Trustees shall hold public hearings as required by this Chapter and decisions shall be voted upon at public sessions. The Village Trustees may otherwise hold executive sessions in accordance with the NYS Open Meetings Law.
- B. The Village Clerk, or their designee, shall keep minutes of all proceedings before the Village Trustees.

### § 210-13.4 VILLAGE TRUSTEE TRAINING

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- A. Village Trustees shall complete at least four hours of training for each year of their term. Training received in excess of four hours in any one year may be carried over into the following year. Trustees must provide certification or proof of training for each year of their term.
- B. Training opportunities shall be approved by the Village Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity.
- C. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

**§ 210-13.5** POWERS & DUTIES

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The Village Trustees' powers and duties with respect to this Chapter shall include final decision authority on the following actions:

- A. Amendments to text and/or map of this Chapter (re-zonings);
- B. Planned Development Districts;
- C. Special use permits; and
- D. Appointments of Planning Board, ZBA, and Historic Preservation Review Board members and staff.

# ARTICLE 14

## HISTORIC PRESERVATION REVIEW BOARD

### § 210-14.1 PURPOSE & AUTHORITY FOR HISTORIC PRESERVATION

- A. **Purpose.** The Village Trustees finds that there exist within the Village of Pittsford places, sites, structures, and buildings of historical and/or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected and preserved to maintain the architectural character of Pittsford Village (as an Historic District in the National Register of Historic Places in 2015), to contribute to the aesthetic value of the Village and to promote the general good, welfare, health and safety of the Village and its residents. The purpose of this local law is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and utilization of buildings, structures, signs, features, improvements, sites, and areas within the Village that reflect special elements of the Village's historical, architectural, cultural, economic or aesthetic heritage for the following reasons:
1. To foster public knowledge, understanding, and appreciation of the historical and architectural character of the Village and in the accomplishments of its past;
  2. To ensure the harmonious, orderly, and efficient growth and development of the Village;
  3. To enhance the visual character of the Village by encouraging new design and construction that complements the Village's buildings;
  4. To protect and promote the economic benefits of historic and architectural preservation to the Village, its inhabitants and visitors;
  5. To protect property values in the Village;
  6. To promote and encourage continued private ownership and stewardship of historic buildings within the Village;
  7. To identify as early as possible and resolve conflicts between the preservation of buildings and structures in the Village and alternative land uses; and
  8. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- B. **Enabling Authority.** Pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K and § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historical Preservation Law; and § 10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of buildings and structures in the Village of Pittsford are necessary to promote the cultural, economic and general welfare of the public.

### § 210-14.2 DESIGNATION OF LANDMARKS & HISTORIC DISTRICTS

- A. **Existing Designations Continued.** The Village Trustees previously determined that the entirety of the Village shall be included within a historic district. The Board of Trustees hereby determines to continue such designation. Due to the unique characteristics of the Village, the Board of Trustees determines that all Village buildings or structures constitute contributing buildings or structures to an historic district. Thus, the provisions of this local law apply to the entirety of the corporate

limits of the Village and to all buildings and structures therein. Any prior landmark designations shall be continued.

**B. Criteria and Designation of Landmarks or Historic Districts.** The commission shall delineate landmarks or historic districts and recommend them to the Village Trustees for designation under local law.

1. Individual Landmark. The commission may delineate an individual property as an individual landmark if it:

- a) Exemplifies or possesses special character or historic or aesthetic interest of value as part of the political, economic or social history of the Village;
- b) Is identified with persons or events significant in local, state or national history;
- c) Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or building;
- d) Represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar visual feature of the community; or
- e) Has yielded or may be likely to yield information important in prehistory or history.

2. Historic District. The commission may (designate/delineate) a group of properties within the Village as an historic district if a majority of properties therein:

- a) Contains buildings or structures which meet one or more of the criteria for designation as a landmark and which may have other buildings or structures that, while not of historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
- b) Constitute a unique section of the Village by reason of possessing those qualities that would satisfy such criteria.

3. Ordinarily, properties that have achieved significance within the past fifty (50) years are not considered eligible for delineation under this landmarks preservation local law or local law adopted by the Village governing board. However, such properties will qualify if they are:

- a) Integral parts of historic districts that meet the criteria for designation; or
- b) If they are properties of exceptional importance.

## § 210-14.3 BOARD MEMBER REQUIREMENTS

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**A. Members and Terms.**



1. The Architectural and Preservation Review Board, as currently constituted, shall continue and be designated as the Historic Preservation Review Board (the "Board"). The Board shall be composed of five members, appointed by the Mayor subject to approval of the Village Trustees.
  2. The terms of Board members shall be three years and expiration of members' existing terms shall remain unchanged from the former Architectural and Preservation Review Board.
  3. Two members of the APRB may reside outside of the Village provided that such a member is a resident of the Town and County wherein the Village is located.
- B. Qualifications of Board Members.** Board members shall have interest, experience, and training in Historic Preservation and Planning, as determined by the Mayor and Board of Trustees.
- C. Vacancies.** Vacancies occurring on the Board other than by expiration of a term of office shall be filled by appointment of the Mayor pursuant to the New York State Village Law. Any such appointment shall be for the unexpired portion of the term of the replaced member.
- D. Training and Attendance Requirements.**
1. Each member of the Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Village Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or board, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning, and traditional classroom training. No member of the Board may also serve as a member of the Village Board of Trustees, Planning Board, Zoning Board of Appeals, in any Village department or official.
  2. To be eligible for reappointment to the Board, a member shall have completed the training approved as set forth above.
  3. The training may be waived or modified by resolution of the Village Trustees when, in the judgment of the Board of Trustees, it is in the best interest to do so.
  4. No decision of the Board shall be voided or declared invalid because of a failure to comply with this subdivision.
- E. Alternates.** Alternates may be appointed and designated pursuant to Chapter 9 of the Village of Pittsford Code.
- F. Board Organization.**
1. Chairperson; designation and duties. The Mayor and the Village Board shall, pursuant to New York State Village Law, designate the Chairperson of the Board. The Chairperson shall be designated from the existing members of the Board. Such designation may be changed at any time by the Mayor and the Village Board. In the absence of such designation, the Chairperson of the Board shall be designated from amongst the members by an affirmative vote of a majority of the members of the Board, and may be changed at any time by an affirmative vote of a majority of the members of the Board. The

Chairperson shall have the right to vote on all matters before the Board. In the Chairperson's absence, the Board may designate an acting Chairperson by affirmative vote of a majority of the Board. All meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine pursuant to paragraph (4) hereinafter. Such Chairperson, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.

2. Secretary. The Village Board shall appoint a secretary to serve as secretary to the Board. At the time of service, the secretary shall not also serve as member of the Board. The secretary shall keep a record of all resolutions proceedings, and actions of the Board, as well as attendance of Board members.
3. Quorum. A simple majority of the Board members shall constitute a quorum for the transaction of business. An affirmative vote of a majority of the full Board is required to approve any resolution, motion, or other matter before the Board.
4. Meetings. The Board shall meet at least monthly, but meetings may be held at any time on the written request of any two (2) Board members or at the call of the Chairperson.

**G. Records and Annual Report.**

1. The Board is subject to the New York Freedom of Information Law and the Open Meetings Law. The vote or failure to vote of each Board member shall be recorded. If any Board member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.
2. Annual Reports. The Board shall submit an annual report of its activities to the Mayor and each member of the Village Board and make such recommendations to the Village Board as the Board deems necessary to carry out the purposes of this local law.
3. Minutes. The Board's minutes, including a record of the Board's decisions and determinations, shall be filed with the Village Board as they are completed.

**H. Recommendations and Adoption of By-Laws.** The Board may recommend to the Board of Trustees of the Village of Pittsford regulations relating to any subject matter over which the Board has jurisdiction under this local law. The Board may approve by-laws that are consistent with the regulations adopted by the Village Board.

**I. Powers and Duties.**

1. From time to time, recommend to the Board of Trustees of the Village of Pittsford any changes and amendments appropriate and necessary with regard to this Chapter.
2. Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the Village of Pittsford, and recommend to the Village Board any changes and amendments thereto.
3. Recommend to the Village Board additional regulations to be adopted by local law that may be necessary for the Board to conduct its business, consistent with the scope and intent of this local law.
4. Recommend to the Village Board specific criteria for regulations to be adopted by local law that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto.
5. Recommend to the Village Board additional criteria to be adopted by local law to be used when evaluating applications for a certificate of appropriateness.

6. Recommend to the Village Board proposals for the acquisition of preservation easements or other interests in real property.
  7. Conduct investigations, prepare maps, reports and recommendations in connection with its advisory authority relating to the planning, development and administration of the Village of Pittsford landmarks preservation policies, regulations and local law as needed, provided the total expenditures of said Board shall not exceed the appropriation provided by the Village Board together with any public or private grant funding received by the Village of Pittsford for the Board to undertake its landmarks preservation powers and duties.
  8. The Board may investigate, report, testify and recommend to the Planning Board, the Zoning Board of Appeals, the Village Trustees, and any Village department or official on matters, permits, authorizations and other actions that affect buildings, structures, and places within the district including any and all matters over which the HPRB has jurisdiction pursuant to this article.
  9. The Board may retain engineering, architectural, historical, planning, technical, environmental, legal consultant or attorney that shall be reasonably necessary to enable the Board to review any applications before it. The fee for the services for any of the above shall be determined and paid pursuant to the terms and provisions of § 210-110 of the Pittsford Village Code or any successor code section or sections thereto.
- J. **Administrative Review Power.** In accordance with this chapter and any regulations adopted by the Village Board for historic preservation purposes, the Board shall use the standards set forth in this chapter, the Secretary of the Interior's Standards for Rehabilitation, the Village of Pittsford Design Guidelines, and/or any other locally developed standards for review to:
1. Evaluate and render a determination upon an application for a certificate of appropriateness: approve, approve with modifications or conditions, or deny any such application.
  2. Evaluate and render a determination upon an application for a certificate of economic hardship; approve, approve with modifications or conditions, or deny any such application.
  3. Perform other functions that the Village Board may designate by local law.
- K. **Cooperation of Village Boards and Officials.** All Village departments, officials, and boards shall, upon request of the Board, assist and furnish available permits, plans, reports, maps, and statistical and other information which the Board may require for its work.

# ARTICLE 15

## PLANNING BOARD

### § 210-15.1 ESTABLISHMENT

---

Per Section 7-718 of NYS Village Law the Planning Board previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.

### § 210-15.2 MEMBERSHIP & TERMS

---

- A. The Planning Board shall consist of five members appointed by the Village Trustees. One of such members shall be appointed as Chairperson by the Mayor, and if no appointment as Chairperson is made, then the Board itself may elect its own Chairperson until such time when a Chairperson is so appointed.
- B. The terms of the members of the Planning Board shall be five years, unless such appointment is to fill an unexpired term of a previous member.
- C. If a vacancy occurs other than by expiration of term, the Mayor shall appoint a new member for the unexpired term.
- D. Planning Board members are required to be residents of the Village with the exception of one member who may reside outside of the Village, provided such member is a resident of the Town of Pittsford, Monroe County wherein the Village is located.
- E. No current Trustee of the Village of Pittsford may serve as a member of the Planning Board.

### § 210-15.3 APPOINTMENTS OF STAFF

---

The Village Trustees shall appoint a secretary to serve at the pleasure of the Planning Board. The Village Trustees may appoint additional clerks or employees to assist the Planning Board as it deems necessary.

### § 210-15.4 ALTERNATE MEMBERS

---

- A. The Village Trustees may appoint up to two alternate members of the Planning Board. Alternate members shall be automatically called to serve in the event that a Planning Board member is absent, has a conflict of interest, or is otherwise unable to fulfill their duties.
- B. Alternate members shall be appointed for a term of five years by resolution of the Village Trustees.
- C. When serving, alternate members shall have all the powers and responsibilities of a full-time Planning Board member.

- D. All Planning Board member requirements relating to training, attendance, conflicts of interest, compensation, eligibility, vacancy, removal, and service shall also apply to alternate members.

## § 210-15.5 MEMBER TRAINING

---

- A. Members shall complete at least four hours of training for each year of their term. Training received by a member in excess of four hours in any one year may be carried over into the following year. Members must provide certification or proof of training for each year of their term.
- B. Training opportunities shall be approved by the Village Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity.
- C. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

## § 210-15.6 COMPENSATION

---

The Village Trustees may provide for the compensation of Planning Board members by resolution. The manner and amount of such compensation shall be subject to review and approval by the Village Trustees as part of the annual budgeting process.

## § 210-15.7 CONDUCT

---

- A. The Planning Board may adopt rules for the conduct of its business consistent with statute and this Chapter.
- B. All members are required to attend and take an active part in all scheduled meetings. If a member is unable to attend a meeting, they must notify the secretary so that an alternate member can be called upon to attend.
- C. In the absence of a Chairperson, the Planning Board may designate a member to serve as acting Chairperson.
- D. The Planning Board may seek recommendations from the Historic Preservation Review Board, ZBA, Village officials or departments, or other agencies as it deems appropriate.
- E. The Planning Board shall hold public hearings as required by this Chapter and decisions shall be voted upon at public sessions. The Planning Board may otherwise hold executive sessions in accordance with the NYS Open Meetings Law.

## § 210-15.8 MINUTES

---

The secretary shall keep minutes of all proceedings before the Planning Board and records of all decisions rendered.

## § 210-15.9 REMOVAL

---

The Village Trustees shall have the power to remove, after public hearing, any member of the Planning Board for cause. Cause for such removal shall include, but not be limited to:

- A. Absence from three consecutive regular or special meetings other than for illness or valid personal reasons substantiated by documented evidence;
- B. Absence from 80% of the regularly scheduled meetings within any 12-month period other than for illness or valid personal reasons substantiated by documented evidence; or
- C. Failure to obtain and comply with the training requirements as set forth in this Chapter.

## § 210-15.10 POWERS & DUTIES

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- A. **Advisory Authority.** Pursuant to this Article and NYS Village Law, the Planning Board is hereby authorized and empowered with review and advisory authority for the following actions:
  - 1. Amendments to the text and/or map of this Chapter (re-zonings);
  - 2. Planned Development Districts; and
  - 3. Special use permits.
- B. **Final Decision Authority.** Pursuant to this Article and NYS Village Law, the Planning Board is hereby authorized and empowered with final decision authority for the following actions:
  - 1. Site plan review.
- C. **Additional Powers.** The Planning Board may exercise additional powers as directed by the Village Trustees and as may be described elsewhere in this Chapter and as permitted by NYS Village Law.

# ARTICLE 16

## ZONING BOARD OF APPEALS (ZBA)

### § 210-16.1 ESTABLISHMENT

---

Per Section 7-712 of NYS Village Law the ZBA previously established under local law and still in existence at the time of this Chapter's enactment shall hereby be continued.

### § 210-16.2 MEMBERSHIP & TERMS

---

- A. The ZBA shall consist of five members appointed by the Village Trustees. One of such members shall be appointed as Chairperson by the Mayor, and if no appointment as Chairperson is made, then the Board itself may elect its own Chairperson until such time when a Chairperson is so appointed.
- B. The terms of the members of the ZBA shall be five years, unless such appointment is to fill an unexpired term of a previous member.
- C. If a vacancy occurs other than by expiration of term, the Village Trustees shall appoint a new member for the unexpired term.
- D. ZBA members are required to be residents of the Village with the exception of one member who may reside outside of the Village, provided such member is a resident of the Town of Pittsford, Monroe County wherein the Village is located.
- E. No current Trustee of the Village of Pittsford may serve as a member of the ZBA.

### § 210-16.3 APPOINTMENTS OF STAFF

---

The Village Trustees shall appoint a secretary to serve at the pleasure of the ZBA. The Village Trustees may appoint additional clerks or employees to assist the ZBA as it deems necessary.

### § 210-16.4 ALTERNATE MEMBERS

---

- A. The Village Trustees may appoint up to two alternate members to serve in the event that a ZBA member is absent, has a conflict of interest, or is otherwise unable to fulfill their duties.
- B. Alternate members shall be appointed for a term of five years by resolution of the Village Trustees.
- C. When serving, alternate members shall have all the powers and responsibilities of a full-time ZBA member.

- D. All ZBA member requirements relating to training, attendance, conflicts of interest, compensation, eligibility, vacancy, removal, and service shall also apply to alternate members.

## § 210-16.5 MEMBER TRAINING

---

- A. Members shall complete at least four hours of training for each year of their term. Training received by a member in excess of four hours in any one year may be carried over into the following year. Members must provide certification or proof of training for each year of their term.
- B. Training opportunities shall be approved by the Village Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity.
- C. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

## § 210-16.6 COMPENSATION

---

The Village Trustees may provide for the compensation of ZBA members by resolution. The manner and amount of such compensation shall be subject to review and approval by the Village Trustees as part of the annual budgeting process.

## § 210-16.7 CONDUCT

---

- A. The ZBA may adopt rules for the conduct of its business consistent with statute and this Chapter.
- B. All members are required to attend and take an active part in all scheduled meetings. If a member is unable to attend a meeting, they must notify the secretary so that an alternate member can be called upon to attend.
- C. In the absence of a Chairperson, the ZBA may designate a member to serve as acting Chairperson.
- D. The ZBA may seek recommendations from the Historic Preservation Review Board, Planning Board, Village officials or departments, or other agencies as it deems appropriate.
- E. The ZBA shall hold public hearings as required by this Chapter and decisions shall be voted upon at public sessions. The ZBA may otherwise hold executive sessions in accordance with the NYS Open Meetings Law.

## § 210-16.8 MINUTES

---

The secretary shall keep minutes of all proceedings before the ZBA and records of all decisions rendered.



## § 210-16.9 REMOVAL

---

The Village Trustees shall have the power to remove, after public hearing, any member of the ZBA for cause. Cause for such removal shall include, but not be limited to:

- A. Absence from three consecutive regular or special meetings other than for illness or valid personal reasons substantiated by documented evidence;
- B. Absence from 80% of the regularly scheduled meetings within any 12-month period other than for illness or valid personal reasons substantiated by documented evidence; or
- C. Failure to obtain and comply with the training requirements as set forth in this Chapter.

## § 210-16.10 POWERS & DUTIES

---

- A. **Final Decision Authority.** Pursuant to this Article and NYS Village Law, the ZBA is hereby authorized and empowered with final decision authority for the following actions:
  - 1. Variances;
  - 2. Appeals; and
  - 3. Zoning code interpretations.
- B. **Additional Powers.** The ZBA may exercise additional powers as directed by the Village Trustees and as may be described elsewhere in this Chapter and as permitted by NYS Village Law.

# ARTICLE 17

## NONCONFORMING USES & STRUCTURES

### § 210-17.1 APPLICABILITY

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- A. A structure or use of land existing prior to the adoption of this Chapter or any amendment hereto which does not conform to the regulations of the district in which it is situated shall immediately be altered or changed so as to conform to said regulations.
- B. However, a building, structure or use of land existing prior to the adoption of this Chapter or any amendment thereto which does not now conform to the regulations of the district in which it is situated may be temporarily continued if it is determined by the Zoning Board of Appeals that the enforcement of this provision would cause serious financial harm to the property owner.
- C. In order to establish serious financial harm, it shall be incumbent upon the property owner to show that substantial improvements had been made to the building, structure or land prior to the enactment of this Chapter or that a substantial business had been built up over the years by the use of such building, structure or land prior to the enactment of this Chapter, and it shall further be incumbent upon the property owner to show that the enforcement of this provision would result in the loss of such substantial improvement or substantial business.
- D. Under no circumstances shall a nonconforming use or structure be permitted to continue indefinitely.

### § 210-17.2 UNSAFE STRUCTURES

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Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

### § 210-17.3 RESTORATION

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- A. A structure damaged by fire or other causes may be restored, and the use of such building which existed at the time of the damage may be resumed, provided that such restoration is commenced within one year of the date the damage was sustained.
- B. In such restoration, no element of nonconformity (e.g. use, setback, height, etc.) shall be increased from the conditions of the original nonconforming use or structure.
- C. Any effort to restore, repair, or rebuild a nonconforming use or structure made a year or more after sustaining damage shall be required to bring such use or structure into conformance with the provisions of this Chapter. The issuance of site plan approval and a certificate of appropriateness may be required as provided for in this Chapter.

**§ 210-17.4 ALTERATIONS & REPAIRS OF STRUCTURES**

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The total alterations and repairs that may be made in a nonconforming structure shall not, during its life subsequent to the date of its becoming a nonconforming structure, exceed 50% of the assessed value of the building unless the structure is brought further into compliance with this Chapter.

**§ 210-17.5 EXTENSION OR EXPANSION OF USE**

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A nonconforming use shall not be extended or expanded to any additional portion of an existing structure or addition thereto or any new structure. However, a lawful use may be extended or expanded to a portion of a nonconforming structure by no more than 25% of the floor area.

**§ 210-17.6 ABANDONMENT OF USE**

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Whenever a nonconforming use has been discontinued for a period of six months, such use shall not thereafter be established, and any future use shall be in conformity with the provisions of this Chapter.

**§ 210-17.7 CHANGE IN USE**

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Once changed to a conforming use, no structure or tract of land shall be permitted to revert to a nonconforming use.

# ARTICLE 18

## PENALTIES & FEES

### § 210-18.1 PENALTIES FOR OFFENSES

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- A. Any person who violates any provision of this Chapter shall be subject to the following:
  - 1. For conviction of a first offense; a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both,
  - 2. For conviction of a second offense, both of which committed within a period of five years; a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and
  - 3. For conviction for a third or subsequent offense, all of which committed within a period of five years; a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.
- B. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.
- C. Each violation that continues over a period of 10 consecutive days shall constitute a separate additional violation.

### § 210-18.2 NOTICE OF PENALTY

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- A. Service of the notice of penalty shall be sufficient if mailed to the property owner or their agent and left at the last known place of residence or place of business if within the Village of Pittsford.
- B. If no place of residence or place of business be so found, the notice shall be served by posting the same in a conspicuous place on the premises which are the subject of the violation.

### § 210-18.3 ENFORCEMENT AUTHORITY

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Nothing in this Chapter shall be construed as depriving or limiting the Village of Pittsford or the Board of Trustees thereof of any other available remedy, by injunction or otherwise, but said Village of Pittsford and the Board of Trustees thereof shall have such other remedies as are provided by law to restrain, correct or abate any violation of this Chapter.

### § 210-18.4 FEE SCHEDULE

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Fees for development review applications, permits, and certificates as required by this Chapter shall be as set forth from time to time by the Village Trustees as part of an official fee schedule.

## § 210-18.5 CONSULTANT FEES

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- A. The Village Trustees, Zoning Board of Appeals, Planning Board, and Historic Preservation Review Board in the review of applications as provided for in this Chapter, may refer any such application presented to them to such engineering, architectural, historical, planning, technical, environmental, or legal consultant, or attorney, as shall be reasonably necessary to enable them to review such application as required by law. The amount of the fee shall be determined by the respective Board and the professional consultant at the time the application is made. Each of the consultants shall estimate their fees based on the services to be rendered on behalf of the Village from a review of the application, including such documents, maps, plans, specifications, drawings and the like as may be a part of the same.
- B. When the amount of the fee or fees has been determined, the applicant shall make an escrow deposit with the Village, equal to the amount of the fees so determined. This escrow deposit shall be utilized to pay the cost of the special consultant's fees involved. The applicant's application shall not be deemed complete until such time as said escrow deposit has been made. If during the course of the review the need for further specialist consultation is deemed reasonably necessary by the Board, the same cost estimate and escrow deposit procedure shall be followed.
- C. Upon completion of said review and within a period of 45 days thereafter, the Board shall adopt a resolution specifying whether the escrow deposit amount specified was sufficient, excessive or insufficient. In the event that a respective Board should determine that said amount is excessive, then the balance shall be returned to the applicant within 60 days. In the event that the Board should determine that the escrow deposit was insufficient, it shall so specify and the applicant shall be required to make payment of such additional amount within 60 days.



# CHAPTER 210

## VILLAGE OF PITTSFORD ZONING CODE

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# PART 3

# APPLICATION & REVIEW PROCEDURES

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- ARTICLE 30: APPLICATION REQUIREMENTS
- ARTICLE 31: PUBLIC HEARINGS
- ARTICLE 32: BUILDING & ZONING CODE COMPLIANCE
- ARTICLE 33: SPECIAL USE PERMITS
- ARTICLE 34: SITE PLAN REVIEW
- ARTICLE 35: CERTIFICATES OF APPROPRIATENESS
- ARTICLE 36: VARIANCES
- ARTICLE 37: AMENDMENTS (RE-ZONINGS)
- ARTICLE 38: APPEALS & INTERPRETATIONS

# ARTICLE 30

## APPLICATION & REVIEW PROCEDURES

### § 210-30.1 APPLICABILITY

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- A. **Application Form.** Applications required under this Chapter must be submitted in a form and in such numbers as outlined. The Village Clerk may provide checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required submittal information may be available in the Village Office.
- B. **Review Boards.** For the purposes of this Chapter the terms "reviewing board" or "review board," shall refer to the Village board or commission charged with review and/or approval authority as enacted under this Chapter. For example, special use permit applications shall fall under the purview of the Village Trustees, while variance applications require Zoning Board of Appeals review.
- C. **Violations Prohibited.** No applications shall be accepted and/or processed with regard to any building, structure, premises, property, or use that is in violation of this Chapter or any other section of the Village Code.

### § 210-30.2 SKETCH PLAN PRE-APPLICATION CONFERENCE

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- A. It is recommended that applicants submit a sketch plan prior to entering the formal application review process to discuss the nature of the proposed application and to determine the best course of action for submittal.
- B. Sketch plan conferences may be held upon request of an applicant with the following Village representatives in attendance:
  1. Code Enforcement Officer;
  2. Village Clerk;
  3. Planning Board Chair;
  4. HPRB Chair; and
  5. Two Village Trustees or One Trustee and the Mayor.
- C. The purpose of the sketch plan conference is to provide an opportunity for a potential applicant to consult early and informally with the Village. A sketch plan conference will help to build a better understanding of the proposal and property in question and establish an overall design approach that respects important features to the Village while maximizing the potential of the property.
- D. In no way shall any comments or feedback provided by the Village during sketch plan review be construed as an indication of decision or be legally binding in any way.
- E. Materials presented during the sketch plan conference may be incomplete and/or conceptual in design; however, a formal application is required to be considered for approval.

## § 210-30.3 GENERAL APPLICATION PROCEDURES

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### A. **Submittal.**

1. Applications where required by this law shall be submitted to the Village Clerk.
2. Only the property owner or their agent, with legally binding and written permission of the owner, may file for subdivision. Where there are multiple land owners, a written consent agreement among all land owners must be included within the application.
3. At least six hard copies and one electronic copy of the required materials shall be provided.
4. Applications must be submitted to the Village Clerk at least two weeks prior to the Planning Board meeting at which the applicant wishes to be considered.

### B. **Acceptance and Processing.**

1. The Village Clerk shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required materials, and is accompanied by the required application fee.
2. The acceptance of an application by the Village Clerk shall in no way be interpreted as a determination of the completeness, adequacy, or accuracy of application materials, but rather serve as an acknowledgement to the receipt of required application materials. The Village Clerk may consult with other Village departments, officials, boards, or committees in making such a determination.
3. If an application is determined to be unacceptable, the Village Clerk must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies that will prevent competent review. No further processing will occur until the deficiencies are corrected. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.
4. No further processing of unacceptable applications will occur; applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.

### C. **Application Fee.** All applications shall be accompanied by the fee established by the Village Trustees. Failure to submit said fee shall deem an application unacceptable, regardless of the status of submittal on all other required materials. This shall also include application consultant fees as established by Section 210-18.5.

### D. **Applicant Responsibilities.** The applicant and/or their agent is expected to attend all meetings of the Planning Board at which the application is to be discussed. In all cases, the burden is on the applicant to show that their application complies with this Chapter and all applicable review criteria.

### E. **Agricultural Data Statement.**

1. Any application for a property that is within an agricultural district containing a farm operation or property within 500 feet of a farm operation located in an agricultural district shall include an agricultural data statement.
2. Upon receipt of an application containing an agricultural data statement, the Village Clerk shall mail a copy of the agricultural data statement to the owners of the land identified by the applicant in the agricultural data statement.



3. The applicant may be required to reimburse the Village for such mailing upon written request.
4. For the purposes of this section an agricultural district shall be defined as an agricultural district recognized by the NYS Agriculture and Markets agricultural district program.

## § 210-30.4 REFERRALS

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- A. **Internal Referral.** The reviewing board may refer any application to another Village board, committee, department, or official for review and comment. Within 30 days of referral the receiving board or official shall submit its recommendation in writing with a summary of findings to the reviewing board.
- B. **Professional Referral.** The reviewing board may seek the opinion of any legal, engineer, design, or other professional to aid in the review of an application in accordance with Section 210-18.5 of this Chapter.
- C. **County Referral.** The Village shall refer all materials to the Monroe County Planning Department pursuant to NYS GML 239-m, as amended and in accordance with planning referral agreements between the Village and Monroe County.

## § 210-30.5 REVIEW BOARD ACTION

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- A. **Issuance of Decision.**
  1. Within 62 days following the close of the public hearing, the reviewing board shall issue a decision by majority vote to approve, approve with conditions or modifications, or deny the proposed application.
  2. Prior to issuing a decision on an accepted application, the reviewing board shall by resolution determine the application as complete, noting any waived requirements therein.
- B. **Written Findings.** Decisions shall contain written findings explaining the rationale for the decisions considering the standards contained in this Chapter. A copy of the decision shall be immediately filed in the Village Clerk's Office and mailed to the applicant.
- C. **Waiving Application Requirements.** The reviewing board is authorized to waive, in whole or in part, any of the application requirements if one or more of the following is determined by majority vote:
  1. Any such requirement of part thereof is found not to be requisite in the interest of the public health, safety, or general welfare;
  2. Any such requirement is inappropriate or unrelated to a particular application; or
  3. Any such requirement will not mitigate adverse impacts generated by the proposed project or will not aid in the buffering of dissimilar uses.
- D. **Additional Application Requirements.** The reviewing board may require additional information not listed herein be submitted as part of an application if such additional material is deemed necessary for a complete and adequate review. Upon request these materials shall be presented in graphic form accompanied by a written text and/or prepared by a licensed professional.

## § 210-30.6 EXPIRATION, REVOCATION & ENFORCEMENT

- A. **Expiration.** The approval of an application shall expire if one of any of the following occur:
1. The approved use or uses cease operation for more than one year for any reason;
  2. The applicant fails to obtain necessary building permits or certificates of occupancy within one year of the approval date;
  3. The applicant fails to comply with the conditions of the application's approval within one year of the date of issuance or completion of construction, where applicable;
  4. The applicant fails to initiate construction within one year of the approval date;
  5. The applicant fails to complete construction within three years of the approval date; or
  6. The applicant fails to renew a time limited permit prior to the stated time period ending.
- B. **Extensions.** The reviewing board may grant an extension for any condition in Subsection A upon written request by the applicant. The applicant shall include in such request the desired time period for the extension, not to exceed one year, and the reasoning for requesting the extension.
- C. **Revocation.** The reviewing board may revoke approval if the applicant violates the conditions of the approval or engages in any construction or alteration not authorized by the approval.
- D. **Enforcement.** Any violation of the conditions of subdivision approval shall be deemed a violation of this law and shall be subject to enforcement action as provided herein.

## § 210-30.7 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

The review and approval of all applications shall comply with the provisions of SEQRA under Article 8 of the Environmental Conservation Law and its implementing regulations. As provided for in Part 617 of SEQRA, the Village of Pittsford hereby establishes the following listing of actions:

- A. **Type I Actions.** The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.
1. The adoption of a municipality's land use plan or the adoption by any agency of a comprehensive resource management plan;
  2. The adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;
  3. The granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;
  4. The construction of new residential units that meet or exceed the following thresholds:

- a) 30 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
  - b) 100 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
5. Activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50% of any of the following thresholds:
- a) A project or action that involves the physical alteration of 10 acres;
  - b) A project or action that would use ground or surface water in excess of 2,000,000 gallons per day;
  - c) Parking for 300 vehicles;
  - d) A facility with more than 100,000 square feet of gross floor area;
6. Any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25% of any threshold established in this section;
7. Any Unlisted action (unless the action is designed for the preservation of the facility or site), that exceeds 25% of any threshold established in this section, occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district listed on the National Register of Historic Places; or
8. Any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of SEQRA.
- B. **Type II Actions.** Actions or classes of actions identified in this section are not subject to review under SEQRA, except as otherwise provided in this section. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review. Type II Actions within the Village of Pittsford shall be consistent with those established in Section 617.5 of SEQRA.

# ARTICLE 31

## PUBLIC HEARINGS

### § 210-31.1 CONDUCTING PUBLIC HEARINGS

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- A. The reviewing board shall schedule, notice, and conduct a public hearing for applications as required by this Chapter and NYS Village Law.
- B. The reviewing board may review multiple applications (e.g. subdivision and site plan review) for a single property or use concurrently and may conduct concurrent or joint public hearings, if desired.
- C. Within 62 days from the receipt of a complete application, the reviewing board must convene a public hearing on the application in question.

### § 210-31.2 PUBLIC NOTICE REQUIRED

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- A. All public notices shall be made at least 10 days prior to the date of the scheduled public hearing.
- B. Public notice shall include mailed notices, media notices, and posted notices in accordance with NYS Village Law.

### § 210-31.3 MAILED NOTICES

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Where required by this Chapter, the Village Clerk shall provide public notice to the following by mail:

- A. Owners of all real property as shown on the current tax map, located within 300 feet of the property that is the subject of the hearing.
- B. The Clerks of adjoining municipalities whose boundaries are located within 500 feet of the property that is the subject of the hearing.
- C. The Monroe County Planning Department where the hearing concerns property adjacent to an existing county road or proposed road shown on the official county map, adjoining other county land, or situated within 500 feet of a municipal boundary.
- D. The State Commissions of Transportation where the hearing concerns an application for development of property within 500 feet of a state highway.

### § 210-31.4 MEDIA NOTICES

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The Village Clerk shall cause for public notice to be posted to the following media sources:

- A. The official newspaper of the Village; and
- B. The official website and/or social media pages of the Village.

## § 210-31.5 POSTED NOTICES

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- A. The Village Clerk shall post a public notice in a location plainly visible within the Village Office.
- B. The applicant shall obtain a sign of public notice from the Village and ensure its placement on the property in question in a manner that is plainly visible to passers-by. Upon close of the public hearing, the applicant shall return the sign to the Village Office.

## § 210-31.6 PUBLIC NOTICE EXPENSES

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An applicant may be required to reimburse the Village for the mailing and posting of a public notice upon written request. If said fee is not received within 62 days of the request, the application shall be considered withdrawn and any decision rendered shall be null and void.

## § 210-31.7 PUBLIC NOTICE CONTENT

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The content of all public notices, except notices posted on the property by a Village commissioned sign, shall:

- A. Indicate the date, time, and place of the public hearing or date of action that is the subject of the notice;
- B. Describe any property involved in the application by street address or general description;
- C. Describe the general nature, scope, and purpose of the application or proposal; and
- D. Indicate where additional information on the matter can be obtained.

# ARTICLE 32

## BUILDING & ZONING CODE COMPLIANCE

### § 210-32.1 BUILDING PERMITS

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#### A. Building Permit Required.

1. No person, firm or corporation shall commence the erection, enlargement, alteration, improvement, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the Building Inspector for each such building or structure.
2. No building permit shall be required for the performance of ordinary repairs which are not structural in nature.

#### B. Expiration of Permit.

1. All work for which such a building permit has been issued shall be fully completed within one year from the date of the issuance of the permit therefor and each permit shall expire one year from the date of its issuance.
2. The Building Inspector, in consultation with the Village Trustees, may extend the period within which the work may be completed and the duration of the permits therefore upon written request of the permit holder. The permit holder shall identify the requested time period of such extension, not to exceed one year, and the reasoning for the extension.

#### C. Revocation. The Building Inspector may revoke a building permit theretofore issued and approved in the following instances:

1. Where the Building Inspector finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
2. Where the Building Inspector finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
3. Where the permittee fails or refuses to comply with the stop order issued by the Building Inspector or other Village authority.

#### D. Licensed Professional Review.

1. In connection with the work for which a building permit is required for any structure, other than a residential structure as is permitted in a residential district, no building permit shall be issued unless there are the seal and signature of a duly licensed architect or professional engineer on the plans and specifications on file in the Village Office.
2. During construction, it shall be the responsibility of said architect or professional engineer or his designated representative to make periodic visits to the construction site to familiarize himself with the progress and quality of the construction and to determine, in general, if the construction is proceeding in accordance with the drawings, specifications and plans which have been submitted to the Village and constitute a basis for the issuance of the building permit.

3. Said architect or professional engineer shall file reports with the Village Clerk at regular intervals indicating the times of such visits and the status of the construction and shall, in particular, contain notice to the Clerk of any defects or discrepancies affecting structural, fire, health or safety which said architect or professional engineer may observe. It is understood that any such defects or discrepancies shall be corrected by the permittee, and the architect or professional engineer shall advise the Village Clerk when such discrepancies have been corrected.

## § 210-32.2 CERTIFICATES OF OCCUPANCY

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- A. No building or land shall be used or changed in use wholly or in part nor shall any land be used or occupied until a certificate of occupancy has been issued by the Building Inspector.
- B. For all instances in which a certificate of occupancy is required other than in residential districts, no certificate of occupancy shall be issued unless there shall be filed with the Village Clerk an affidavit of a registered architect and/or licensed professional engineer who filed the original plans and/or specifications or of the registered architect or licensed professional engineer who supervised the construction of the work or the superintendent of construction who supervised the work and who, by reason of experience, is qualified to superintend the work for which the certificate is sought.
- C. This affidavit shall state that the professional has examined the approved plans and specifications of the structure for which the certificate of occupancy is sought and that the structure has been erected in accordance with the approved plans and specifications and, as erected, complies with the provisions of the NYS Uniform Fire Prevention and Building Code and all other laws governing building construction in the Village of Pittsford.

## § 210-32.3 CERTIFICATE OF ZONING COMPLIANCE

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- A. **Certificate of Zoning Compliance Required.** A Certificate of Zoning Compliance shall be required for the following:
  1. Any action requiring the issuance of a building permit;
  2. Any change in the use or occupancy of any land or structure; and
  3. Any action subject to review and approval under this Chapter.
- B. **Issuance of Certificate.** The CEO shall be responsible for the issuance of a Certificate of Zoning Compliance. No certificate shall be issued until the CEO has verified that the action is in full compliance with this Chapter and/or the provisions of the action's plans, conditions, or specifications. The CEO shall specify the nature of compliance on the certificate and make note of any approvals obtained as required by this Chapter.
- C. **Expiration of Certificate.** A Certificate of Zoning Compliance shall expire six months after the date of issuance unless a building permit is obtained and maintained. In the case where a building permit is not required, work must commence within six months from the date of issuance.
- D. **Voided Certificate.** Any Certificate of Zoning Compliance issued in conflict with the provisions of this Chapter shall be null and void.

- E. **Revocation.** The CEO may revoke a Certificate of Zoning Compliance in the following instances:
  - 1. Where the CEO finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the action was based.
  - 2. Where the CEO finds that the use or action authorized by the permit is in violation of this Chapter and/or the provisions of the action's plans, conditions, or specifications.

## § 210-32.4 STOP WORK ORDERS

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- A. Whenever the Building Inspector or CEO has reasonable grounds to believe that work on any building, structure, or premises, irrespective of the zoning area, is being prosecuted in violation of the provisions of the Village Code, building codes, ordinances, rules or regulations, or not in conformity with the provisions of an application, plans, or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, notification shall be given to the owner of the property or the owner's agent to suspend all work.
- B. Any person, corporation, or agency issued a stop work order shall forthwith stop such work and suspend all building activities until the stop order has been rescinded.
- C. The order and notice shall be in writing and shall state the conditions under which the work may be resumed.
- D. The order and notice may be served upon a person or corporation to which it is directed whether by delivering it personally or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail to the permittee or their designee.

## § 210-32.5 RIGHT OF ENTRY

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- A. In the course of performing the duties of the Building Inspector, or other authorized Village official that requires access to a building or the premises thereof, the official shall show the proper credentials and request permission to enter said building or premises.
- B. If allowed, the official shall conduct the required inspection.
- C. If denied access, the official shall follow the legal procedure for obtaining a warrant to enter the building and/or premises. If the situation warrants, the official shall request law enforcement assistance in gaining the required access.



# ARTICLE 33

## SPECIAL USE PERMITS

### § 210-33.1 APPLICABILITY

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- A. **Application Submittal.** A special use permit application shall be submitted for any proposed use or activity requiring a special use permit under this Chapter. Such applications shall be subject to the review and approval procedures of Article 30 of this Chapter.
- B. **Planning Board Review.** The Planning Board shall review special use permit applications and provide written recommendation to the Village Board to approve, approve with conditions, or deny such application.
- C. **Village Board Decision.** The Village Board shall hear and decide all applications for special use permits, upon receipt of recommendation by the Planning Board.
- D. **Public Hearing Required.** A public hearing shall be held by the Village Board prior to issuing a decision on any special use permit application.
- E. **Purpose of Review.** Special uses are generally considered to be uses that have a higher potential for incompatibility with adjacent uses. By requiring the individual review of special use permit applications, the Village Board helps to determine the level of compatibility of a use in its proposed location.
- F. **Permit to run with Property.** Once granted, a special use permit is authorized with respect to the specified use and/or property rather than the applicant or property owner. Any change of use which results in a departure from operations and conditions authorized under the existing special use permit shall require the review and issuance of a new permit.

### § 210-33.2 APPLICATION REQUIREMENTS

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An applicant for a special use permit shall submit:

- A. A special use permit application form, including the name, address, and signature of the applicant, owner of record, and developer.
- B. A description or narrative of all proposed uses and structures, including but not limited to hours of operation, peak number of employees, maximum seat capacity, and required number of parking spaces.
- C. A narrative report describing how the proposed use will satisfy the criteria set forth in the special use permit review criteria of this Chapter, as well as any other applicable requirements relating to the specific use proposed.
- D. All SEQR Documentation as required by New York State Law.
- E. The application fee and any fees for development review as determined by Section 210-18.5.

### § 210-33.3 CONCURRENT SPECIAL PERMIT REVIEW

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- A. Where site plan review is also required of a proposed special use permit, the application requirements of Article 34 shall also apply. Duplicate application materials may be combined to satisfy submittal requirements.
- B. The applications may be considered concurrently; however, the decisions for each action (special permit and site plan review) shall be issued separately.

### § 210-33.4 SPECIAL USE PERMIT CONSIDERATIONS

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In granting or denying special use permits, the reviewing board shall take into consideration the:

- A. The compatibility of scale of the proposed project to surrounding uses;
- B. The potential for the proposed use to have negative impacts, such as traffic or noise, on neighboring uses;
- C. The potential impact on future use of the property;
- D. The existence or proposition measures that would tend to mitigate potential adverse impacts and preserve or enhance the traditional character of the Village; and
- E. Any applicable requirements of Article XX of this Chapter (Certain Use Regulations).

### § 210-33.5 SPECIAL USE PERMIT REVIEW CRITERIA

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Before issuing a decision for a special use permit, the reviewing board shall make specific written findings that the proposed use:

- A. Will be consistent with the goals of the Village Comprehensive Plan;
- B. Will meet all relevant criteria set forth in this Chapter;
- C. Will be compatible with existing uses adjacent to and near the property;
- D. Will not create a hazard to health, safety or the general welfare of the public;
- E. Will not alter the essential character of the neighborhood nor be detrimental to the residents thereof;
- F. Will not be a nuisance to neighboring land uses in terms of the production of obnoxious or objectionable noise, dust, glare, odor, refuse, fumes, vibrations, unsightliness, contamination or other similar conditions;
- G. Will not cause undue harm to or destroy existing sensitive natural features on the site or in the surrounding area or cause adverse environmental impacts such as significant erosion and/or sedimentation, slope destruction, flooding or ponding of water, or degradation of water quality;
- H. Will not destroy or adversely impact significant historic and/or cultural resource sites;

- I. Will provide adequate landscaping, screening or buffering between adjacent uses which are incompatible with the proposed project; and
- J. Will not otherwise result in an excessive or significant negative impact on the community that cannot be mitigated.

### **§ 210-33.6** CONDITIONS ON SPECIAL USE PERMITS

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The reviewing board may impose conditions on or require modifications of the premises benefited by a special use permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood, including limitations on the time for which the permit is granted. Such conditions shall be expressly set forth in the motion authorizing the special use permit.

### **§ 210-33.7** AMENDMENTS TO APPROVED SPECIAL USE PERMITS

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Proposed amendments or revisions to an approved special use permit shall be subject to review and approval in accordance with this Article. The issuance of a new, updated special use permit shall be required.

# ARTICLE 34

## SITE PLAN REVIEW

### § 210-34.1 INTENT

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- A. The physical form of the Village of Pittsford contributes to its aesthetic character, charm, quality of life, function, economic vitality, and historic integrity.
- B. The intent of the site plan review process is to preserve and enhance the physical form of the Village, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improve the overall visual and aesthetic quality of the Village, and increase the capability of the Zoning Code to adapt to a variety of unique circumstances.

### § 210-34.2 APPLICABILITY

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- A. **Approval Required for Development.** Site plan review shall be required in accordance with New York State Village Law. No building permit may be issued, or site improvement work commence, until site plan approval has been granted.
- B. **Minor Site Plan Review Actions.** Minor site plan review shall be required for the construction, alteration, demolition, or reconfiguration of:
  - 1. Minor subdivisions, subject to the requirements of Chapter 211.
  - 2. Detached structures not exceeding 400 square feet in floor area or one-story in height.
  - 3. Additions not exceeding 400 square feet in floor area or one-story in height.
  - 4. Landscaping, fencing, screening, and exterior lighting in commercial districts.
  - 5. Decks, patios, porches, or other outside seating areas ancillary to a commercial use.
  - 6. Parking areas of 20 spaces or less.
  - 7. Driveways, including new or altered curb cuts.
- C. **Major Site Plan Review Actions.** Major site plan review shall be required for the construction, alteration, demolition, or reconfiguration of:
  - 1. Major subdivisions, subject to the requirements of Chapter 211.
  - 2. Buildings or sites occupied by a specially permitted use.
  - 3. Residential dwellings or units.
  - 4. Structures or additions exceeding 400 square feet in floor area or one-story in height.
  - 5. Parking areas of more than 20 spaces.
- D. **Exempt Actions.** The following actions are exempt from site plan review:
  - 1. Ordinary repair or maintenance or interior alterations to existing structures or uses.
  - 2. Construction of decks, porches, or patios ancillary to a residential use.
  - 3. Ordinary repair, maintenance, or replacement of landscaping, fencing, exterior lighting, decks, patios, porches, parking areas, or driveways.

4. Installation, maintenance, or replacement of permitted signs.

### § 210-34.3 MINOR SITE PLAN REVIEW

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- A. **Application Submittal.** Minor site plan review applications shall be submitted, processed, and review in accordance with Article 30 of this Chapter.
- B. **Planning Board Review.** Minor site plans shall be subject to review and approval by the Planning Board.
- C. **Public Hearing Optional.** No public hearing shall be required for a minor site plan. However, the Planning Board may elect to hold a public hearing as part of their review if deemed necessary.

### § 210-34.4 MINOR SITE PLAN APPLICATION MATERIALS

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A minor site plan application shall include the following materials, as applicable.

- A. Site plan review application form, including the name, address, and signature of the applicant, owner of record, and developer.
- B. Description or narrative of all proposed uses and structures.
- C. A certified land survey, or other document deemed acceptable by the CEO
- D. A site plan showing the following:
  1. Property lines and dimensions of the lot(s) in question;
  2. Complete footprints of all existing and proposed structures with dimensions.
  3. Setback dimensions from property boundaries to all existing and proposed structure(s), driveways, and parking areas.
  4. Exterior building elevations (existing and proposed) showing all sides exposed to view and showing the location and size of all windows, doors, trim, architectural details and indicating the type of all exterior materials to be used for the proposed structure.
  5. Location, height, intensity and bulb type of all external lighting fixtures.
  6. Placement and type of all landscaping, vegetation, or other natural features.
- E. Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
- F. Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- G. All NYS SEQR documentation as required by law.
- H. The application fee and any fees for development review as determined by Section 210-18.5.

### § 210-34.5 MAJOR SITE PLAN REVIEW

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- A. **Application Submittal.** Major site plan review applications shall be submitted, processed, and review in accordance with Article 30 of this Chapter.

- B. **Planning Board Review.** Major site plans shall be subject to review and approval by the Planning Board.
- C. **Public Hearing Required.** A public hearing shall be held by the Planning Board prior to issuing a decision on any major site plan application.

## § 210-34.6 MAJOR SITE PLAN APPLICATION MATERIALS

An application for major site plan review shall include the following materials, as applicable. A licensed professional engineer or registered land surveyor shall prepare all site plan materials unless otherwise approved by the Planning Board.

- A. Site plan review application form, including the name, address, and signature of the applicant, owner of record, and developer, and seal(s) of the engineer, architect, or landscape architect who prepared the site plan materials.
- B. Description or narrative of all proposed uses and structures, including but not limited to hours of operation, peak number of employees, maximum seat capacity, and proposed number of off-street vehicle and bicycle parking spaces.
- C. A site plan drawn at a scale of one-quarter inch equals 1 foot or such other scale as the Planning Board may deem appropriate, on standard 24 inch by 36 inch sheets, with continuation on 8 ½ inch by 11 inch sheets as necessary for written information.
- D. A certified land survey showing the boundaries of the applicant's property under consideration in its current state plotted to scale with the north point, scale, and date clearly indicated, or other document deemed acceptable by the CEO.
- E. Plans indicating the following with regard to the property in question, where applicable.
  1. The location of all properties, their ownership, uses thereon, subdivisions, streets, easements, and adjacent buildings within 100 feet of the property in question.
  2. The location and use of all existing and proposed structures on the property in question, including all dimensions of height and floor area, exterior entrances, and anticipated future additions and alterations.
  3. The location of all existing and proposed topography features, including but not limited to, site grading, open spaces, woodlands, watercourses, steep slopes, wetlands, floodplains, and watersheds.
  4. The location of existing and proposed landscaping, screening, walls, and fences, including information regarding the size and type of plants and building materials proposed.
  5. The location of existing and proposed public and private streets, off-street parking areas, loading areas, driveways, sidewalks, ramps, curbs, and paths. Such plans shall include considerations for vehicular, pedestrian, and bicycle traffic circulation, parking, and access.
  6. The location of existing and proposed utility systems including sewage or septic, water supply, telephone, cable, electric, and stormwater drainage. Stormwater drainage systems shall include existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales, subject to the requirements of Chapter 175 of the Village Code.

7. The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures, subject to the requirements of Chapter 117 of the Village Code.
  8. The location, height, size, material, and design of all existing and proposed signs.
- F. The following additional application materials may be required by request of the Planning Board:
1. A detailed traffic study, to include:
    - a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
    - b) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
    - c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
  2. Soil logs, test well, percolation test results, and/or stormwater runoff calculations.
  3. Natural resource inventories and/or tree surveys.
- G. Elevations at a scale of one-quarter inch equals one foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color or materials to be used.
- H. Plans for disposal of construction and demolition waste.
- I. Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- J. A schedule for completion of each construction phase for buildings, parking, and landscaped areas.
- K. Identification of any state or county permits required for the project and record of application for and approval status of such permits.
- L. All NYS SEQR documentation as required by law.
- M. The application fee and any fees for development review as determined by Section 210-18.5.

## § 210-34.7 CONCURRENT REVIEWS

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### A. **Special Use Permits.**

1. Where a special use permit is also required of a proposed site plan, the application requirements of Article 33 shall also apply. Duplicate application materials may be combined to satisfy submittal requirements.

2. The applications may be considered concurrently; however, the Planning Board shall issue decisions for each action (special permit and site plan review) separately.

- B. Certificates of Appropriateness.** Where a site plan application also requires review and approval by the Historic Preservation Review Board (HPRB) for a Certificate of Appropriateness, the Planning Board's approval or approval with condition/modification shall be contingent upon the subsequent issuance of a Certificate of Appropriateness. In the event that the HPRB denies a Certificate of Appropriateness request, the decision of the Planning Board for the associated site plan application shall be null and void.
- C. Subdivision.** A subdivision application may be submitted in conjunction with a site plan application and processed concurrently. All subdivision applications related to a site plan must comply with Chapter 211 of the Village of Pittsford Code and shall be reviewed as outlined therein.

## § 210-34.8 SITE PLAN REVIEW CRITERIA

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- A. The Planning Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:
1. Adequacy and arrangement of vehicular traffic and circulation, including intersections, road widths, channelization structures and traffic controls.
  2. Adequacy and arrangement of pedestrian and bicyclist access and circulation, including separation from vehicular traffic where appropriate and connection both internally and externally to the site.
  3. Relationship of proposed uses to existing adjacent uses, including but not limited to landscape transitions, buffering, and harmony of uses.
  4. Adequacy of landscaping and site treatment, including but not limited to plant types and sizes, hardscape elements, lighting, setbacks, protection of adjacent residential uses.
  5. Relationship of proposed buildings to the site, including but not limited to building placement, access, pedestrian movement, parking, and building scale.
  6. Location, arrangement, size, design and general site compatibility of lighting and signs.
  7. Adequacy of interior circulation for emergency vehicle access.
  8. Adequacy of water supply, stormwater, and sanitary waste disposal facilities.
  9. Protection of existing viewsheds within the Village.
  10. Conformance with this Chapter and the Village's Comprehensive Plan.
- B. The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should the Planning Board require changes or additional facilities, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.
- C. Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

## § 210-34.9 HPRB RECOMMENDATION

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- A. The Planning Board may refer site plan applications to the HPRB for review and recommendation.
- B. The HPRB shall review the application and provide a written recommendation for approval, conditional approval, or disapproval of the site plan. This review and issuance of recommendation shall follow the application procedures of Article 30 of this Chapter.
- C. The written recommendation shall include a summary of findings by the HPRB. A copy of such recommendation shall immediately be filed with the Village Clerk and provided to the applicant.

### § 210-34.10 PLANNING BOARD ACTION

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- A. Upon issuing a decision, the Planning Board shall provide a written statement to the applicant stating whether or not the site plan is approved, conditionally approved, or disapproved.
  - 1. Upon approval, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and the written statement of approval with the Village Clerk.
  - 2. The Planning Board may conditionally approve a site plan. After adequate demonstration to the Planning Board that all conditions have been met, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it and the written statement of approval with the Village Clerk.
  - 3. Upon disapproval of a site plan, the decision of the Planning Board shall immediately be filed with the Village Clerk.
- B. A copy of the written decision shall be mailed to the applicant in all cases.

### § 210-34.11 CONDITIONS ON SITE PLANS

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- A. The Planning Board may impose conditions on or require modifications of a site plan as necessary to satisfy the application review criteria to the greatest extent practicable.
- B. Any conditions or modifications included as part of approval shall be expressly set forth in the motion approving the site plan and incorporated into the written decision.

### § 210-34.12 AMENDMENTS TO APPROVED SITE PLANS

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Proposed amendments or revisions to an approved site plan shall be subject to review and approval in accordance with this Article. The issuance of a new, updated site plan shall be required.

# ARTICLE 35

## CERTIFICATES OF APPROPRIATENESS

### § 210-35.1 CERTIFICATE REQUIRED

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- A. A Certificate of Appropriateness is required for the alteration of any exterior architectural feature of any building or structure in the Village of Pittsford and for construction of any building or structure in the Village of Pittsford that is, in any respect, visible from a public street, public or private park, the Erie Canal, or any other public or private space that is accessible to the public.
- B. All changes to Village or other municipality-owned property affecting an individual landmark or within a historic district shall be subject to the provisions of this local law.
- C. No building permit or demolition permit shall be issued absent compliance with this chapter.

### § 210-35.2 ISSUING CRITERIA

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- A. **General Criteria.** The Historic Preservation Review Board (HPRB) shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the property itself, the district or neighboring properties in such district.
- B. **Specific Criteria.** In making its decision to approve, approve with modification(s) and/or conditions, or deny an application for a Certificate of Appropriateness, the HPRB shall apply the Secretary of the Interior's Standards for Rehabilitation and any regulations adopted by the Village of Pittsford Board of Trustees for historic preservation purposes, the Village of Pittsford Design Guidelines, any other locally developed standards for review, and the following standards:
  - 1. Properties in the Village shall be retained as appropriate pursuant to the standards for review enumerated by this section with their exterior architectural features altered only in conformity with those same standards.
  - 2. Any alteration to any exterior architectural feature of any building or structure in the Village and any construction of any building or structure in the Village of Pittsford shall be compatible with properties in the Village. In applying the principles of compatibility, the HPRB shall consider the following factors:
    - a) The general design and character of the proposed alteration or construction relative to existing features of the property or improvement, surrounding properties, the neighborhood and the Village;
    - b) The mass and scale of the proposal.
    - c) The neighborhood context.

- d) The scale and visual compatibility of the proposed alteration or construction in relation to the property itself, surrounding properties, the neighborhood and the Village.
  - e) Texture and materials, and their relation to similar features of the property, other properties in the neighborhood and the Village.
  - f) Visual compatibility with surrounding properties and properties in the Village, including proportion of the property's façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties on streets and the Village, including setbacks.
  - g) The importance of historic physical and visual features to the significance of the property.
  - h) Exterior architectural features shall be repaired rather than replaced whenever possible. In the event that replacement of such exterior architectural feature is necessary, the new material shall match the material being replaced in kind including composition, design, texture and other visual qualities.
  - i) Any other factors relevant to the proposed alteration or construction.
- 3. Demolition or partial demolition may be permitted only after the replacement exterior architectural feature or building or structure has been approved.
  - 4. In approving an application for a Certificate of Appropriateness, the HPRB shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications and/or conditions, will be consistent with the spirit and intent of this local law, will not be detrimental to the character of the neighborhood, will not result in inappropriate development, and utilization of the site or of adjacent lands and will not adversely affect the functioning economic stability, prosperity, health, safety and general welfare of the community.
  - 5. Where the HPRB grants a Certificate of Appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the HPRB shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the HPRB shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.
  - 6. In approving an application for a Certificate of Appropriateness, the HPRB shall not review changes to exterior paint colors, but shall approve color changes involving permanent or long-lasting materials.

## § 210-35.3 APPLICATION PROCEDURES

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- A. **Application Requirements.** Concurrently with an application for a building permit, the property owner or their designee shall file a letter application for a Certificate of Appropriateness with the HPRB and the Secretary. Such application shall contain:
  - 1. The name, address, and telephone number of the applicant.
  - 2. The building permit application number as assigned by the building department.

3. The location and photographs of property.
  4. Dimensioned elevation drawings of proposed changes.
  5. Perspective drawings, including relationship to adjacent properties.
  6. Samples of building materials to be used, including their proposed color.
  7. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, the method of illumination, and a plan showing the sign's location on the property; and any other information which the HPRB may deem necessary in order to visualize the proposed work.
  8. Other materials and information as required by the HPRB.
  9. A statement regarding compliance with the New York State Environmental Quality Review Act ("SEQRA").
  10. A verification from the Village Clerk's Office that the proposed project has received any and all other approvals from any and all Village Boards and Officials as required by the Code of the Village of Pittsford.
- B. **Completeness Determination.** Upon receipt of all the information required herein, the authorized official shall deem the application complete and shall place the application on the agenda of the next meeting of the HPRB, provided all materials have been received by the Board and the authorized official at least two (2) weeks prior to the Board's meeting. If the materials have been received less than two (2) weeks prior to the next HPRB meeting, the matter will be placed on the following meeting agenda.
- C. **Notice.** In addition to any other notice required by law, upon submittal of an application for a Certificate of Appropriateness, the applicant shall cause a notice to be posted on the property for a minimum of ten days prior to the meeting at which the application is first considered. An affidavit of posting shall be submitted to the HPRB upon the Board's request. This notice must remain in place until a decision has been made on the application. The notice shall specify the proposed work to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.
- D. **Decisions.** The HPRB may approve, approve with modifications and/or conditions, or deny an application for a Certificate of Appropriateness. All decisions of the Board shall be in writing. A copy shall be sent to the applicant by mail, and a copy filed with the (Building Inspector) and Village Clerk for public inspection. The HPRB's decision shall state the reasons for approving, approving with modifications and/or conditions, or denying any application.
- E. **Durational Limitation.** Certificates of Appropriateness shall expire after one (1) year if work has not commenced in furtherance thereof.

## § 210-35.4 HARDSHIP RELIEF PROCESS & CRITERIA

- A. **Relief for Economic Hardship.** An applicant whose Certificate of Appropriateness for a proposed alteration or new construction of a property has been denied may apply for relief on the ground of economic hardship.
- B. **Consultation Required.** As promptly as is practicable after receiving an application for hardship relief as provided in this local law, the HPRB, with the aid

of such experts as it deems necessary, shall, in consultation with the applicant, endeavor to develop a plan whereby the property or properties may be preserved and perpetuated in such manner as to effectuate the purpose of this local law, and also rendered capable of earning a reasonable return. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.

C. **Application Contents.** An application hereunder must contain, at a minimum, the following information:

1. Current level of economic return;
2. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
3. Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
4. Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;
5. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
6. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
7. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
8. Any state or federal income tax returns relating to the property for the last two years;
9. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding:
  - a) Any real estate broker or firm engaged to sell or lease the property;
  - b) Reasonableness of price or rent sought by the applicant; or
  - c) Any advertisements placed for the sale, or rent of the property.
10. Feasibility of alternative uses for the property that could earn a reasonable economic return;
11. Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
12. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
13. Estimated fair market value of the property:
  - a) In its current condition; and
  - b) After any modification proposed by the application for Certificate of Appropriateness.

14. Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
  15. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
  16. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- D. **Criteria for Hardship.** In order to prove the existence of economic hardship related to a proposed alteration or new construction, the applicant shall establish the following factors:
1. The applicant cannot realize a reasonable return if compliance with the HPRB's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence;
  2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  3. That the requested relief, if granted, will not alter the essential character of the neighborhood;
  4. That the alleged hardship has not been self-created;
  5. The character of the request is the minimum necessary to achieve reasonable relief from the alleged hardship; and
  6. The feasibility of a plan developed pursuant to subparagraph B.
- E. **Public Hearing Required.** Following the submission of a complete application for hardship relief, the HPRB shall schedule a public hearing on ten (10) days public notice pursuant to the terms and provisions of Pittsford Village Code § 210-111 or any successor section thereto.
- F. **Decision.** If the HPRB finds that the applicant's burden of proof has not been met, the Board shall deny the application for a hardship relief. If the HPRB finds that the applicant's burden of proof has been met, the Board shall issue a determination granting the hardship relief and shall issue a Certificate of Hardship. The parameters of the hardship relief, and any modifications and/or conditions imposed, shall be set forth in writing.

# ARTICLE 36

## VARIANCES

### § 210-36.1 APPLICABILITY

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The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this Chapter, shall have the power to grant variances, as defined herein.

### § 210-36.2 BURDEN OF PROOF

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The applicant seeking the variance shall have the burden of presenting sufficient evidence to allow the ZBA to reach a conclusion as set forth below as well as the burden of persuasion on those items.

### § 210-36.3 APPROVAL PROCESS

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- A. **Application.** Applications for zoning variances may be initiated only by the owner of the subject property or by the owner's authorized agent. Complete applications for a zoning variance must be submitted in accordance with Article 30 of this Chapter.
- B. **Public Hearing.** Once the application has been accepted, the ZBA must hold at least one public hearing on a proposed zoning variance. Notice of said public hearing shall be provided in accordance with Article 31 of this Chapter.
- C. **Decisions.**
  - 1. The ZBA shall decide upon the variance within 62 days after the closing of the public hearing. The time within which the ZBA may render its decision may be extended by mutual consent of the applicant and ZBA.
  - 2. The decision of the ZBA shall be filed with the Village Clerk within five business days after the decision is rendered and a copy mailed to the applicant.

### § 210-36.4 USE VARIANCES

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- A. A use variance authorizes the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter. A finding of unnecessary hardship is required to properly grant a use variance.
- B. The ZBA shall not grant a use variance without the applicant having shown that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, per New York State Village Law Section 7-712-B, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located the following conditions exist:
  - 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  3. The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  4. That the alleged hardship has not been self-created.
- C. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## § 210-36.5 AREA VARIANCES

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- A. An area variance authorizes the use of land that is not allowed by the dimensional or physical requirements set forth in this Chapter. An area variance is one that does not involve a use that is otherwise prohibited by this Chapter.
- B. In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider the following as required by New York State Village Law Section 7-712-B:
1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  3. Whether the requested area variance is substantial in relation to the requirement;
  4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  5. Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.
- C. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## § 210-36.6 IMPOSITION OF CONDITIONS

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The ZBA shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Village Code and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## § 210-36.7 TRANSFERABILITY

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Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

**§ 210-36.8**    **AMENDMENTS**

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- A. An applicant may request a rehearing for changes in conditions of approval of a zoning variance. A rehearing request may be granted upon unanimous approval of the ZBA.
- B. Failure to secure a rehearing shall require the submission of a new variance application, including the requirements for fees, notices, and hearings.

# ARTICLE 37

## AMENDMENTS (RE-ZONINGS)

### § 210-37.1 AUTHORITY TO FILE

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Amendments to the zoning text or zoning map (re-zonings) may be initiated by the Village Trustees or by recommendation of the Planning Board or petition presented to the Village Trustees. Zoning map amendment petitions shall be duly signed by the owners of at least 50% of the frontage of the parcels included within the area proposed to be rezoned. Re-zoning petitions may be filed by the owner or by the owner's authorized agent.

### § 210-37.2 NOTICE OF HEARING

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Notice of required public hearings on zoning text and map amendments must be provided as required by the Village Trustees and by state law (See Article 31 of this Chapter for additional information on public hearing notices).

### § 210-37.3 PLANNING BOARD REVIEW OPTIONAL

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- A. The Village Trustees may refer re-zoning applications to the Planning Board for review and recommendation.
- B. Upon referral by the Village Board, the Planning Board shall prepare a report that evaluates the proposed amendment in light of the Village Comprehensive Plan, Local Waterfront Revitalization Plan, other adopted plans, the relevant provisions of this zoning law, and the review criteria of this Article.
- C. The Planning Board's report shall be provided to the Village Trustees as a written summary of findings with a recommendation by resolution to approve, approve with conditions or modifications, or deny the re-zoning request.

### § 210-37.4 REFERRALS

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- A. In accordance with Section 239-m of New York State General Municipal Law, zoning text and map amendments must be forwarded to the Monroe County Planning Department for review prior to the public hearing and final action by the Village Trustees.
- B. If any proposed amendment consists of a change in the district classification applying to real property within 500 feet of a municipal boundary, the Village Clerk shall serve notice of the proposed amendment to the chief elected official of the affected municipality, prior to the public hearing and final action.

### § 210-37.5 STATE ENVIRONMENTAL QUALITY REVIEW

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For zoning text and map amendment applications subject to SEQR requirements, all required environmental reviews must be completed before final action is taken on the amendment.

## § 210-37.6 VILLAGE TRUSTEES REVIEW PROCEDURE

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- A. If receiving a report or recommendation by the Planning Board, the Village Trustees must deny the proposed amendment or convene a public hearing on the proposed amendment.
- B. Following the public hearing, the Village Trustees may act to approve, approve with modifications, or deny the proposed amendment. The Village Trustees may also return the application to the Planning Board for further consideration.
- C. The Village Trustees may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with this Article and New York State General Municipal Law.
- D. The Village Clerk shall notify, by mail, the petitioner of the action taken by the Village Trustees.
- E. If the Village Trustees approve the amendment, supplement, change, or modification to the text of this Chapter or official zoning map, the text and/or map shall be amended after publication as required by New York State General Municipal Law.
- F. The Village Trustees may, in order to protect the public health, safety, welfare and environmental quality of the community, attach to its resolution approving the petition, additional conditions deemed necessary to achieve the review criteria.

## § 210-37.7 REVIEW CRITERIA

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In reviewing and making decisions on zoning amendments the Planning Board and Village Trustees must consider at least the following criteria:

- A. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning law or meets the challenge of a changing condition;
- B. Whether the proposed amendment is in substantial conformance with the adopted plans and policies of the Village;
- C. Whether the proposed zoning amendment is in the best interests of the municipality as a whole;
- D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested re-zoning, if applicable;
- E. Whether the re-zoning will substantially harm the public health, safety, or general welfare or the value of nearby properties, if applicable;
- F. Whether the re-zoning is compatible with the zoning and use of nearby properties, if applicable;
- G. The suitability of the subject property for the uses and development to which it has been restricted under the existing zoning regulations, if applicable; and

- H. The gain, if any, to the public health, safety and general welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

## § 210-37.8 PROTEST PETITIONS

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- A. A formal protest petition opposing a zoning text and/or map amendment must be submitted to the Village Trustees or placed on the public record before the Village Trustees' vote, allowing sufficient time for the municipality to determine the validity of the petition (Consult New York State General Municipal Law more information on protest petitions).
- B. A protest petition will be considered "valid" if it is signed by:
  - 1. The owners of 20% or more of the area of land included in such proposed change;
  - 2. The owners of 20% or more of the area of land immediately adjacent to that land included in such proposed amendment, extending 100 feet therefrom; or
  - 3. The owners of 20% or more of the area of land directly opposite thereto, extending 100 feet from the street frontage of such opposite land.
- C. When a valid protest petition has been submitted, approval of a zoning amendment requires a super majority (majority plus one vote) of the Village Trustees.

## § 210-37.9 PETITION FOR AMENDMENT

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A petition requesting a change in regulations or other provisions of this Chapter shall be written, signed, and acknowledged by the person presenting it and shall be filed with the Village Clerk in triplicate.

# ARTICLE 38

## APPEALS & INTERPRETATIONS

### § 210-38.1 APPLICABILITY

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The Zoning Board of Appeals (ZBA) is authorized to hear and decide appeals where it is alleged there has been an error in interpretation of any zoning code provisions or in any order, requirement, decision, or determination made by the CEO, Building Inspector, or other administrative official under the Village Code.

### § 210-38.2 RIGHT TO APPEAL

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Appeals may be filed by any person aggrieved by an administrative decision of the CEO, Building Inspector, or other agent duly designated to the administration and enforcement of the Village Code. The ZBA is authorized to make determinations about whether individuals filing appeals are "aggrieved by the decision or action."

### § 210-38.3 APPLICATION FILING

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- A. Appeal applications must be filed in accordance with Article 30 of this Chapter.
- B. Appeal applications must be filed within 60 days of the date of the decision being appealed.
- C. Every appeal application shall refer to the specific provision of this Chapter involved and shall exactly set forth the interpretation that is claimed.

### § 210-38.4 STAY UPON APPEAL

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An appeal shall stay all proceedings in furtherance of the appealed action, unless the CEO or Building Inspector certifies to the ZBA a stay would, in his or her opinion, cause imminent peril to life or property. Then the proceedings shall not be stayed otherwise than by a restraining order granted by the ZBA or by a court of record on application, to the CEO or Building Inspector.

### § 210-38.5 RECORD OF DECISION

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Upon receipt of a complete appeal application, the CEO must transmit to the ZBA all papers constituting the record upon which the action appealed is taken.

### § 210-38.6 REFERRALS & SEQR

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All appeals shall complete the municipal referral procedure and SEQR documentation where required by New York State General Municipal Law. Additional information may be found in Article 30 of this Chapter.

**§ 210-38.7 HEARING & FINAL DECISION**

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- A. The ZBA must hold a public hearing on the appeal within 62 days of receiving a complete application. A notice of public hearing on appeals must be provided as required by New York State Village Law and in accordance with Article 31 of this Chapter.
- B. The ZBA must take action on the appeal within 62 days of the close of the public hearing.
- C. In exercising the appeal power, the ZBA has all the powers of the village official or agent from whom the appeal is taken.
- D. The ZBA may reverse the appeal or affirm the appeal, in whole or in part, or modify the decision being appealed.
- E. In acting on the appeal the ZBA must grant to the decision or action a presumption of correctness, placing the burden of persuasion of error on the appellant.
- F. A motion for the ZBA to hold a rehearing to review any order, decision or determination not previously reheard, may be made by any member of the ZBA. A unanimous vote of all members of the ZBA then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

**§ 210-38.8 ARTICLE 78 PROCEEDING**

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- A. Any person or persons aggrieved by any decision of the ZBA or other such review board charged with the administration and enforcement of this Chapter may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the Civil Practice Laws and Rules. Such proceeding shall be instituted within 30 days after the filing of the review board's decision in the office of the Village Clerk.
- B. Costs shall not be charged to the Village unless it shall appear to the Court that it acted in gross negligence or in bad faith or with malice in making its decision.