

**TOWN OF LAFAYETTE  
LOCAL LAW NO.2 OF 1985**

**A LOCAL LAW PURSUANT TO ARTICLE 8 OF THE  
NEW YORK ENVIRONMENTAL CONSERVATION LAW PROVIDING  
FOR ENVIRONMENTAL QUALITY REVIEW OF ACTIONS WHICH  
MAY HAVE A SIGNIFICANT EFFECT ON THE GOVERNMENT**

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

**SECTION 1.** Repeal of Prior Local Law.

Local Law # 1 for the year 1977 is hereby repealed in its entirety.

**SECTION 2.** Definitions.

- (a) Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this Local Law shall have the same meaning as those defined in Article 8 of the Environmental Conservation Law ("ECL") and Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR"), as now constituted or as may hereafter be amended.
- (b) "Town" shall mean the Town of LaFayette.

**SECTION 3.** Compliance with Law Required.

No decision to carry out, fund or approve a proposed action, other than an action exempt from Article 8 of the ECL or an action listed in Section 5 of this Local law or in Section 617.13 of Title 6 of the NYCRR as a Type II action, shall be made by the Town Board or by any other board, agency, commission, officer or employee of the Town having jurisdiction over the proposed action unless and until there has been full compliance with all requirements of Article 8 of the ECL, Part 617 of Title 6 of the NYCRR and this Local Law provided, however, that nothing in this Local law shall be construed as prohibiting:

- (a) the conducting of contemporaneous environmental, engineering, economic, feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the Town to commence, engage in, fund or approve such action, or
- (b) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination shall entitle or permit the applicant to commence the action unless and until all requirements of Article 8 of the ECL, Part 617 of Title 6 of the NYCRR and this Local Law have been fulfilled.

**SECTION 4.** Type I Actions.

- (a) Consistent with the criteria set forth in Section 617.12 of Title 6 of the NYCRR, the following actions, referred to as "Type 1" actions, are likely to have a significant effect on the environment.
  - (1) All of those actions listed as "Type I" actions in Section 617.12 of Title 6 of the NYCRR, as now constituted or as may hereafter be amended;
  - (2) Construction of new (or expansion by more than 50 percent of existing size, square footage or usage of existing):
    - (a) Airports;
    - (b) Correction facilities;
    - (c) Parking facilities or other facilities with an associated parking area for 250 or more cars, but only if such facility would require an indirect source permit under Part 203 of Title 6 of the NYCRR;
    - (d) Stationery combustion installations operating at a total heating input exceeding 1,000 million BTU's per hour;
    - (e) Chemical pulp mills;
    - (f) Portland cement plants;
    - (g) Iron and steel plants;
    - (h) Primary aluminum ore reduction plants;
    - (i) Incinerators operating at a refuse charging rate exceeding 250 tons of refuse per 24 hour day;
    - (j) Sulfuric acid plants;
    - (k) Petroleum refineries;
    - (l) Lime plants;
    - (m) Bi-product coke manufacturing plants;
    - (n) Storage facilities designed for or capable of storing one million or more gallons of liquid natural gas, liquid petroleum gas or other liquid fuels;
    - (o) Sulfur recovery plants;
    - (p) Fuel conversion plants;
    - (q) Process, exhaust and/or ventilation systems emitting air contaminants assigned an environmental rating of "A" under Part 212 of Title 6 of the NYCRR and whose total emission rate of such "A" contaminants exceeds one pound per hour;
    - (r) Process, exhaust and/or ventilation systems from which the total emission rate of all air contaminants exceeds 50 tons per day;
    - (s) Any action which takes place wholly or partially within, or substantially contiguous to, any Critical Environmental Area designated by a local agency pursuant to Part 617 of Title 6 of the NYCRR;

- (t) Any facility, development or project which would use ground or surface water in excess of 2,000,000 gallons in any day;
- (u) Any industrial facility which has a daily average discharge flow, based on days of discharge, of greater than 5000,000 gallons per day;
- (v) Any publicly or privately owned sewage treatment works which has an average daily design flow of more than 5000,000 gallons per day;
- (w) Lakes or other bodies of water with a water surface in excess of 200 acres;
- (3) Any funding, licensing or planning activities in respect of any of the types of construction listed above;
- (4) Application of pesticides or herbicides over more than 1,500 contiguous acres;
- (5) Clearcutting of 640 or more contiguous acres of forest cover or vegetation other than crops;
- (6) Commercial burial of radioactive materials requiring a permit under Part 380 of Title 6 of the NYCRR; and
- (7) Any action which will result in excessive or unusual noise or vibration taking into consideration the volume, intensity, pitch, time duration and the appropriate land uses for both the source and the recipient of such noise or vibration.

The Town Board may add to the foregoing list by amendment to this Local Law.

**SECTION 5. Type II Actions.**

Consistent with the criteria set forth in Section 617.13 of Title 6 of the NYCRR, the following actions, referred to as "Type II" actions, are deemed not to have a significant effect on the environment:

- (1) All of those actions listed in Section 617.13 of Title 6 of the NYCRR, as now constituted or as may hereafter be amended;
- (2) Construction or alteration of a single or two-family residence and accessory or appurtenant uses or structures, provided that the same is not located in one of the Critical Environmental Areas described in Section 4(a) (l) (s) of this Local Law;
- (3) Construction or alteration of a store, office or restaurant designed for an occupant load of 20 persons or less, if not in conjunction with the construction or alteration of two or more stores, offices or restaurants and if not in one of the Critical Environmental Areas described in Section 4 (a)(l)(s) of this Local Law, and the construction of utility facilities to serve such establishments;

- (4) Operating, expense or executive budget planning, preparation and adoption not involving new programs or major reordering of priorities; and
- (5) Actions which are immediately necessary for the protection or preservation of life, health, property or natural resources.

**SECTION 6. Environmental Report.**

For the purpose of assisting in the initial determination of whether a proposal action mayor will not have a significant effect on the environment, applicants for permits or other approvals shall file a written environmental report with the Town agency or official hearing jurisdiction over the proposed action. This written report shall be in accordance with all requirements of Article 8 of the ECL and part 617 of Title 6 of the NYCRR and shall include, without limitation, the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect(s) it may have on the environment. In addition, applicants shall include a detailed statement of the reasons why, in their view, a proposed action mayor will not have a significant effect on the environment. Where the action involves an application, the report shall be filed simultaneously with the application for the action. The report shall be accompanied by drawings, sketches and maps, and any other relevant explanatory material required by the Town agency or official having jurisdiction over the proposed action.

**SECTION 7. Procedure.**

Upon receipt of a complete application and an environmental report, the Town agency or official having jurisdiction over the proposed action shall follow and comply with all requirements set forth in Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the NYCRR, as now constituted or as may hereafter be amended.

**SECTION 8. Effective Date.**

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