

**TOWN CLERKS MINUTES  
REGULAR MEETING  
67 Main Street  
Brewster, NY 10509  
DECEMBER 20, 2007**

Present: Supervisor Dunford  
Councilman Johnson  
Councilman Honeck  
Councilman Bonanno  
Councilwoman Mitts

Also: Town Clerk Ruth A. Mazzei  
Town Attorney Willis H. Stephens, Jr.

**REGULAR MEETING**

Councilman Honeck made a motion to open the Regular Meeting and Councilwoman Mitts seconded. All in favor.

Pledge of Allegiance

Notation of Exits

Brief Explanation of Town Board's Decision-Making Process

**PUBLIC HEARING**

Supervisor Dunford made a motion to open the Public hearings and Councilman Johnson seconded. All in favor.

**RELEASE OF PERFORMANCE BOND-HARDSCRABBLE TENNIS**

Supervisor Dunford made a motion to open the public hearing regarding Hardscrabble Tennis and Councilman Johnson seconded. All in favor. Town Clerk Mazzei read the legal notice. Owner of Hardscrabble tennis is 1841 Park Avenue Realty. The property is located on Sutton Place and the hearing is for a release of the performance posted in connection with the development. The bond is going from \$10,000 to \$0; no comments were received. Supervisor Dunford made a motion to close the public hearing and Councilman Johnson seconded. All if favor.

**RELEASE OF PERFORMANCE BOND-PALAZETTI OFFICE WAREHOUSE**

Supervisor Dunford made a motion to open the public hearing regarding Palazetti Office Warehouse and Councilwoman Mitts seconded. All in favor. Town Clerk Mazzei read the legal notice. This property is at 30 Hardscrabble Heights (TM#78-2-80.) and the hearing is for the release of the performance posted in connection with the development. Owner of property is Perry Palazetti. Te bond went from \$346,000 to \$170,000 to \$0; no comments were received. Councilman Johnson made a motion to close the public hearing and Supervisor Dunford seconded. All if favor.

**RELEASE OF PERFORMANCE BOND-#7 SUTTON PLACE**

Councilman Johnson made a motion to open the public hearing and Councilman Honeck seconded. All in favor. Town Clerk Mazzei read the legal notice. This property is known as Sutton Park No. 7. The request is made by Beyer & Associates who are the former owners, for a release of a performance bond in the amount of \$203,460. A replacement performance bond for the project by the new owner, 7 Sutton Place, LLC, is for \$345,000. No comments. Councilman Johnson made a motion to close the public hearing and Councilwoman Mitts seconded. All in favor.

**LOCAL LAW TO AMEND CHAPTER 138 OF TOWN CODE**

Supervisor Dunford made a motion to open the public hearing regarding a Local Law to amend chapter 138 and Councilwoman Mitts seconded. All in favor. Town Counsel Stephens read the legal notice. This law would amend Chapter 138 by amending Section 138-6 entitled "Zoning Map" to amend to rezone tax parcels #56.15-1-20, and 56.-1-40 from R40 to ED and to amend 138-41 to clarify that the stormwater pollution prevention plans prepared in connection with site plan approval must comply with Town Code Chapter 119 entitled "Stormwater Management and Erosion and Sediment Control." One lot is Auto Sprint and one lot is Metro-North. Councilman Johnson made a motion to close the public hearing and Councilman Honeck seconded. All in favor.

**LOCAL LAW TO AMEND CHAPTER 123 OF TOWN CODE**

Councilwoman Mitts made a motion to open the public hearing and Councilman Bonanno seconded. All in favor. Town Clerk Mazzei read the legal notice. No comments were given. This would amend chapter 123 entitled "Subdivision of Land" by amending Sections 123-30 entitled "Erosion and Sediment Control plan" to reference Chapter 119 of the town code and to clarify that a storm water maintenance plan must be prepared and submitted in all instances when land disturbance will be one (1) acre or greater. Section 123-48 D(2)(a) will be amended to require a four (4) year "performance" guarantee be filed in connection with the operation of the storm water and sediment control plan. Supervisor Dunford made a motion to close the public hearing and Councilman Johnson seconded. All in favor.

**LOCAL LAW TO AMEND CHAPTER 112 OF TOWN CODE**

Councilwoman Mitts made a motion to open the public hearing and Councilman Honeck seconded. All in favor. Town Counsel Stephens read the legal notice. This proposed local law would amend chapter 112 entitled "Sewers and Water" to regulate non-stormwater discharges to the municipal separate storm sewer system required under federal and state law. 112-2 "Purpose" would establish methods for controlling the introduction of pollutants into the town's stormwater system. 112-3 Objectives would add 5 additional objectives to meet requirements of the SPDES General Permit for storm water discharges. 112-4 Definitions would amend or revise a variety of terms and delete "Sewer Inspector" and "Town Inspector" A new Article III entitled "Illicit discharge Detection and Elimination to Separate Storm Sewer System" was added and also add provisions and also establish procedures for alleged violations of the chapter. The adoption of this law will be connected with the current regulation and will be coming in line with the MS4 in 2008. The town will have some responsibility with the existing systems. New drainage district will have to put money up front. Other districts there had been no fees charged because there was no maintenance. Supervisor Dunford made a motion to close the hearing and Councilman Honeck seconded. All in favor.

**LOCAL LAW TO ADD CHAPTER 119 OF THE TOWN CODE**

Councilman Honeck made a motion to open the public hearing and Councilwoman Mitts seconded. All in favor. Town Clerk Mazzei read the legal notice. This law would add a new Chapter 119 entitled “Stormwater Management and Erosion and Sediment Control.” which would establish minimum storm water management requirements and controls in an effort to comply with the Municipal Separate Storm Water Sewer System (MS4) Phase II storm water management requirements of the National Pollutant discharge elimination System (NPDES) regulations administered through the State Pollutant Discharge Elimination System (SPDES) regulation. The new chapter would define purpose; definitional terms, standards for certifications among other things. It would also establish procedures and standards for the maintenance, inspection and repair of storm water management devices and establish enforcement procedures and penalties for violations. It would be consistent and review for compliancy. Councilman Johnson made a motion and Councilwoman Mitts seconded the motion to close the meeting.

**REVIEW OF MINUTES**

Councilwoman Mitts made a motion to approve the minutes of October 18, 2007 and November 15, 2007. Councilman Johnson seconded. All in favor.

**CORRESPONDENCE**

Supervisor Dunford made a motion to waive the reading of the correspondence and Councilwoman Mitts seconded. All in favor.

**Correspondence Received**

1. Croton Falls Fire district Re: Adopted 2008 Budget for the Croton Falls Fire District
2. New York State Insurance Fund Re: Vincent J. Murphy DBA Colonialtown Lawn & Garden Care
3. The Putnam County Legislature to the Supervisor Re: The Cold War Veteran’s Exemption
4. Spectra Energy Re: AGT Liaison Meeting
5. Comcast to the Supervisor Re: Franchise Fee Payment – 3<sup>rd</sup> Quarter 2007
6. Re: Liquor License Application/Renewal Southeast Grille House at 2459 Route 6, Brewster, New York
7. Spectra Energy to the Supervisor Re: Algonquin Gas Transmission, LLC, East to West Hubline Expansion Project
8. Brewster-Southeast Joint Fire District Re: 2008 Budget Summary
9. Gregory Wunner to the Supervisor Re: Planning Board Opening
10. Keith Greene, AIA to the Supervisor Re: Proposal for Architectural Services for Improvements to Old Town Hall 67 Main Street
11. The Putnam County Legislature to the Supervisor Re: “The Cold War Veteran’s Exemption”
12. NYS DOH to the Supervisor Re: Drinking Water State Revolving Fund Final Intended Use Plan Funding Period October 1, 2007 to September 30, 2008
13. Veterans of Foreign Wars Post 1374 to the Supervisor Re: Pearl Harbor Day Observance
14. Bibbo Associates, L.L.P. to the Supervisor Re: Route 6 Business Plaza Special Permit-Proposed Retail Use
15. NYS Environmental Facilities Corporation to the Supervisor Re: Blackberry Hill Sanitary Sewer District WWTP – Notice to Proceed with Execution of Contracts and Construction
16. Putnam County Office of the Sheriff to the Supervisor Re: Crime Statistic Information for the Town of Southeast Including the Village of Brewster
17. Southeast Museum to the Supervisor Re: Annual Brewster Holiday Lighting and Caroling Festival on Saturday December 1<sup>st</sup>

18. Anthony R. Molé to the Supervisor Re: Release of Performance Bond for Brewster Transit Mix Property: 31 Fields Lane
19. Richard L. O'Rourke to the Supervisor Re: Application of ALCON, LLC for a Special Permit – Property: Fields Lane
20. Putnam County Department of Health to the Supervisor Re: Annual Inspection Blackberry Hill Sanitary Sewer District WWTP Town of Southeast
21. NYS Department of Health and Environmental Facilities Corporation Re: Drinking Water State Revolving Fund Final Intended Use Plan Funding Period October 1, 2007 to September 30, 2008
22. Putnam Engineering, PLLC Re: Environmental Records at Property Located at Putnam County Tax Map No. 56.19-1-40
23. ACORD Certificate of Liability Insurance Re: Sani-Pro Disposal Services
24. Town of Patterson Planning & Zoning Office Re: Notice of Public Hearing December 6, 2007 at 7:30pm
25. Putnam County Press Re: Official Newspaper for the Town of Southeast
26. Croton Falls Fire District Re: Notice of Annual Election of the Croton Falls Fire District
27. Putnam County Legislature Re: Resolution #231 of 2007
28. Department of Health to the Supervisor Re: Wells Park Beach
29. NYMIR to the Supervisor Re: NYMIR's Proposal Rate Adjustment for 2008
30. Putnam County Office for the Aging to the Supervisor Re: Agreement for Outreach Worker
31. Board of Elections Re: 2008 Presidential Primary Election
32. ACORD Certificate of Liability Insurance Re: Clark Plumbing & Heating, Inc
33. NYS Insurance Fund Re: Clark Plumbing & Heating Inc.
34. Putnam County Sheriff to the Supervisor Re: Railroad Bridge Crossing at Prospect Hill Road
35. Department of Health Re: Peach Lake Sewer District
36. Putnam County Department of Planning, Development & Public Transportation Re: 2006 Lake Management Contracts, Quality Communities Grant for Putnam Main Streets, Putnam Bikeway IV (PIN 8759.05)
37. Putnam County Department of Planning Development & Public Transportation Re: Maybrook Bikeway II (PIN 8756.84)
38. NYS Department of Transportation Re: Safe Routes to School Program
39. Town of North Salem Town Board Re: Peach Lake Sewer District

**FOILS**

1. Michael Riolo Re: Request for ARB Meeting Minutes from June, July August September of 2007
2. GC Environmental Re: Request for Records of any Environmental Violations, Spills and any Tanks on the Property 3920 Danbury Road
3. Pioneer Pools Re: Request for Copy of Survey
4. Hogan & Rossi Re: Request for Local Law 15 & 16 of 2004, Local Law 1 of 2005, Local Law 11 and 12 of 2006 and Local Law 2 & 4 of 2007
5. Matthew Neuringer Re: Request for a Copy of 2008 Budget, A List of all Current Town Employees and Vacancies. A List of all Vehicles Owned by the Town of Southeast, Copy of Organizational Meeting Agenda's for 2005, 2006 and 2007 and View Town Voucher Books 2004-2007
6. Cathy Croft Re: Request for Copy of 2006 Financial Report

**Correspondence Sent**

1. Mr. Sep Re: Returned Check
2. Putnam County Sheriff from Jim Lawlor Re: Prospect Hill Road Bridge
3. Hon. Daniel Birmingham from Supervisor Dunford Re: Peach Lake Sewer District
4. Memorandum to the Supervisor, Town Board, Town Attorney and Town Clerk from Jim Lawlor Re: Specifications for the New Truck Requested by the Highway Department
5. NYS EFC Certificate of Disbursement Request Re: Request #38
6. Mr. Martin Parenti, Ms. Mary Cundari Re: Certificate of Occupancy
7. Memo to the Planning Board from the Supervisor Re: Clocktower Common

8. Memo to the Accounting Department from the Supervisor Re: Budget Transfer Approval
9. Ms. Maureen L. McGrath from Michael Levine Re: Third Amendment for the Blackberry WWTP Upgrade
10. Anthony Eagan P.E. Re: Blackberry Hill Sanitary Sewer Plant Upgrade
11. Memo from the Highway Department to the Supervisor and Town Clerk Re: Town Vehicle Inventory Update
12. Memo to Supervisor Dunford from Building Inspector Re: Updating Town Fee Schedule Building Department Fees
13. Robert H. Sammons, P.E. from Michael Levine Re: Report #87 for the Blackberry Hill Sewer District Treatment Facility

### **VOUCHERS**

Councilman Honeck made a motion to approve the voucher list in the amount of \$1,165,114.29. Councilwoman Mitts seconded. All in favor.

### **MEETING DATES**

Councilman Bonanno made a motion setting meeting dates and Councilwoman Mitts seconded. All in favor.

January 3, 2008                      7:30PM-1360 Rt. 22                      Organizational Meeting

### **BUDGET TRANSFERS**

Councilman Johnson made a motion approving budget transfers. Councilman Bonanno seconded. All in favor. (See Attached)

### **MOTION- SEQRA DETERMINATION**

Supervisor Dunford made a motion – SEQRA Determination of Significance to amend Chapter 119”, Stormwater Management and Erosion and Sediment Control”, Amendments to Chapter 112, “Sewer and Water”, Chapter 123, “Subdivision”, Chapter 138, “Zoning”, and Amendments to the Zoning Map. Councilman Johnson seconded. All in favor.

### **RESOLUTION # 63 /2007 COMMUNITY BASED SERVICES/PALAZETTI WAREHOUSE SPECIAL PERMIT REQUEST**

Introduced By: Councilman Johnson  
Seconded By: Councilwoman Mitts

**WHEREAS**, Perry Palazetti, owner of premises located on Hardscrabble Heights Drive, Town of Southeast, also known as Tax Map No. 78.-2-80 (the “Subject Premises”) has made application to this Town Board for a Special Permit to allow approximately 2100 square feet of the Subject Premises to be used and utilized for “light manufacturing” to wit: preparation and cooking meals for distribution to established group homes; and

**WHEREAS**, the Subject Premises are located in an OP-1 zone; and

**WHEREAS**, “light manufacturing” uses are only permitted in n OP-1 zone as a principal use upon the grant of a Special Permit by the Town Board; and

**WHEREAS**, the Town Board is in receipt of a report from the Planning Board which recommends the grant of the Special Permits and has found that the proposal is in compliance with all applicable general and special standards of Article 10 of Chapter 138 of the Town Code; and

**WHEREAS**, the proposal constitutes a “Type II” action under the State Environmental Quality Review Act in that there is no new construction proposed and that the intensity of the use proposed does not meet or exceed any of the necessary thresholds; and

**WHEREAS**, a duly noticed public hearing was held by the Town Board on November 15, 2007 in connection with this application and all interested parties have been given an adequate opportunity to be heard in this regard,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Southeast hereby makes the following findings of fact in connection with the instant application:

1. The proposed use is in such location and is a size and character that it will be in harmony with the appropriate and orderly development of the surrounding district and will not be detrimental to the immediate site or adjacent properties;
2. The location and size of the proposed use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout, and its relation to access streets will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous;
3. As there will be no changes to the existing exterior appearance of the buildings, the proposal will not hinder or discourage the development and use of adjacent land and buildings; and
4. The proposed use will not require such additional public facilities or services or create fiscal burdens upon the Town greater than those which characterize uses permitted as of right.

**AND BE IT FURTHER**

**RESOLVED**, that based upon the foregoing findings, the Town Board of the Town of Southeast hereby GRANTS a Special Use Permit to Perry Palazetti, owner, and Community Based Services, Inc., tenant, to allow the use of approximately 2100 square feet within the Subject Premises for the purpose of “light manufacturing”, in accordance with the floor plan layout submitted in connection with this application.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against: 0 abstained.

**RESOLUTION # 64 /2007 LISI’S TOWING, INC. /DYKEMANS 4 ASSOCIATES  
SPECIAL PERMIT REQUEST**

Introduced By: Councilman Bonanno  
Seconded By: Supervisor Dunford

**WHEREAS**, Dykemans 4 Associates, owner of premises located on NYS Route 312, Town Of Southeast, also known as Tax Map No. 45.-2-35 (the Subject Premises”), and Lisi’s Towing, inc., proposed tenant, have made application to this Town Board for a

Special Permit to allow a portion of the Subject Premises to be used and utilized for “light manufacturing” and “automotive” uses to wit: housing a motor vehicle towing and repair facility in accordance with the statement of use filed by the applicant; and

**WHEREAS**, the Subject Premises are located in an ED zone; and

**WHEREAS**, “automotive” and “light manufacturing” uses are only permitted in an ED zone as a principal use in an ED zone upon the grant of a Special Permit by the Town Board; and

**WHEREAS**, the Town Board is in receipt of a report from the Planning Board which recommends the grant of the Special Permits and has found that the proposal is in compliance with all applicable general and special standards of Article 10 of Chapter 138 of the Town Code; and

**WHEREAS**, the proposal constitutes a “Type II” action under the State Environmental Quality Review Act and the Planning Board, acting as Lead Agency for SEQRA review has adopted a negative declaration in this regard; and

**WHEREAS**, a duly noticed public hearing was held by the Town Board on, October 20, 2007 in connection with this application and all interested parties have been given an adequate opportunity to be heard in this regard,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Southeast hereby makes the following findings of fact in connection with the instant application:

1. The proposed use is in such location and is a size and character that it will be in harmony with the appropriate and orderly development of the surrounding district and will not be detrimental to the immediate site or adjacent properties;
2. The location and size of the proposed use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout, and its relation to access streets will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous;
3. As the development will be located off the main road and suitably screened, the proposed use will not hinder or discourage the development and use of adjacent land and buildings; and
4. The proposed use will not require such additional public facilities or services or create fiscal burdens upon the Town greater than those which characterize uses permitted as of right.

**AND BE IT FURTHER**

**RESOLVED**, that based upon the foregoing findings, the Town Board of the Town of Southeast hereby GRANTS a Special Use Permit to Dykemans 4 Associates, owner, and Lisi’s Towing, Inc., tenant, to allow the use of a portion of the proposed commercial industrial park as motor vehicle towing and repair operation within the Subject Premises, in accordance with the statement of use and site plan layout submitted in connection with this application,

**UPON ROLL CALL VOTE**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Nay

VOTE: carried by a vote of 4 in favor, 1 against; 0 abstained.

**RESOLUTION # 65 /2007 HARDSCRABBLE TENNIS-SITE PLAN RELEASE OF PERFORMANCE BOND**

Introduced By: Councilman Honeck  
Seconded By: Councilwoman Mitts

**WHEREAS**, the Town Board of the Town of Southeast is in receipt of a report and recommendation from the Town Engineer with respect to the release of Performance Bond for 1841 Park Avenue Realty, Inc., owner of the “Hardscrabble Tennis Club” located on Sutton Place (Tax Map No. 78-2-16.3 and 16.4), Town of Southeast, and

**WHEREAS**, such report recommends the release of the balance of the performance bond held in connection with this project.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the remaining performance bond amount for the Hardscrabble Tennis Club is hereby released and the Town Clerk is hereby authorized to return any and all original bonds, deposits, letters of credit or other indicia of security posted in connection with this project.

**UPON A ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**RESOLUTION # 66 /2007 PALAZETTI – SITE PLAN RELEASE OF PERFORMANCE BOND**

Introduced By: Supervisor Dunford  
Seconded By: Councilman Johnson

**WHEREAS**, the Town Board of the Town of Southeast is in receipt of a report and recommendation from the Town Engineer with respect to the release of a Performance Bond for Perry Palazetti, owner of premises located at 30 Hardscrabble Heights Drive (Tax Map No. 78.-2-80) known as the “Palazetti Warehouse”, Town of Southeast; and

**WHEREAS**, such report recommends the release of the balance of the performance bond held in connection with this project.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the remaining performance bond amount for the Palazetti Warehouse is hereby released and the Town Clerk is hereby authorized to return any and all original bonds, deposits, letters of credit or other indicia of security posed in connection with this project.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.



**RESOLUTION # 67 /2007 SUTTON CORPORATE PARK LOT #7 - SITE PLAN  
RELEASE/REPLACEMENT OF PERFORMANCE BOND**

Introduced By: Councilwoman Mitts

Seconded By: Councilman Honeck

**WHEREAS**, the Town Board of the Town of Southeast is in receipt of a report and recommendation from the Town Engineer with respect to the release and replacement of a Performance Bond for premises known as Sutton park Lot No. 7 (Tax Map No. 78-2-16.1), Sutton Place, Town of Southeast, and

**WHEREAS**, such report recommends the release of the performance bond posed by Beyer and Associates held in connection with this project and that a new bond be established with the Town by 7 Sutton Place, LLC, in the amount of \$345,000.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the performance bond posted by Beyer and Associates for Sutton Park Lot #7 is hereby released and the Town Clerk is hereby authorized to return any and all original bonds, deposits, letters of credit or other indicia of security posted in connection with this project and that a new performance security in the amount of \$345,000.00 shall be posted with the Town Clerk in a form and manner of execution satisfactory to the Town Attorney before and building permits shall be issued or site work commenced.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye

Councilman Johnson – Aye

Councilman Bonanno – Aye

Councilman Honeck – Aye

Councilwoman Mitts – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**RESOLUTION # 68 /2007 ADOPTING LOCAL LAW-AMENDING TOWN CODE  
CHAPTER 131 “VEHICLE and TRAFFIC”**

Introduced By: Councilman Honeck

Seconded By: Councilwoman Mitts

**WHEREAS**, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to amend Chapter 131 of the Town Code entitled “Vehicles and Traffic” relating to the placement of stop signs; and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on October 4, 2007; and

**WHEREAS**, it is the sense of this Town Board that the adoption of such local law which will authorize the placement of stop signs on Minor Road will better serve the public and enhance the health, safety and welfare of the citizens of the Town of Southeast.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 8 of 2007, a copy of which is annexed hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**RESOLUTION # 69 /2007 ADOPTING LOCAL LAW/AMENDING TOWN CODE**  
**Town of Southeast, Putnam County, NY**  
**Local Law No. 8 of 2007**

A LOCAL LAW entitled: “**A Local Law to Amend Chapter 131 of the Town Code, entitled “Vehicles and Traffic”**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

**Section 131-33 Stop Signs**

- A. Unless some other form of traffic control device is indicated for a particular location, stop signs shall be placed at the end of all Town roads.
- B. In addition to the locations set forth in paragraph A hereof, a stop sign or signs shall be placed at the following locations.

<u>Name of Street</u>	<u>Intersection</u>
Minor Road	Bearberry Lane

**CHAPTER 138 “ZONING”**

Introduced By: Councilwoman Mitts  
Seconded By: Councilman Johnson

**WHEREAS**, a resolution having been adopted by the Town board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to amend Chapter 138 of the Town Code entitled “Zoning” relating to requirements for compliance with storm water pollution prevention; and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on December 20, 2007; and

**WHEREAS**, it is the sense of this Town Board that the adoption of such local law will enhance the health, safety and welfare of the citizens of the Town of Southeast.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 9 of 2007, a copy of which is annexed hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

December 20, 2008

**Town of Southeast, Putnam County, NY**  
**Local Law No. 9 of 2007**

A LOCAL LAW entitled: “**A Local Law to Amend Chapter 138 of the Town Code, ‘Zoning’.**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

**Section 1. Legislative Intent**

The Town Board of the Town of Southeast seeks to do the following:

- Rezone properties to a zoning district consistent with the current or future use of property.
- Comply with the Municipal Separate Storm Sewer System (MS4) Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES) regulations, administered by New York State through the State Pollutant Discharge Elimination System (SPDES) regulations.

**Section 2. Amendments to Article II, “Establishments of Districts; Map”**

Section 138-6, “Zoning Map”

Rezone parcel 56.-1-40 from R40 to ED

Rezone parcel 56.15-1-20 from R40 to ED

**Section 3. Amendments to Article IX, “Site Plan Review and Approval”**

Section 138-41.E (2) (c) [2] [g]: A Stormwater Pollution Prevention Plan prepared in compliance with Chapter 119, “Stormwater Management and Erosion and Sediment Control.”

Section 138-41.E (2) (c) [2] [i]: An Erosion and Sediment Control Plan prepared in compliance with Chapter 119, “Stormwater Management and Erosion and Sediment Control.”

**Section 4.                   Validity**

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

**Section 5.                   Effective Date**

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

**RESOLUTION # 70 /2007ADOPTING LOCAL LAW-AMENDING TOWN CODE**  
**CHAPTER 123 “SUBDIVISION OF LAND”**

Introduced By: Supervisor Dunford

Seconded By: Councilwoman Mitts

**WHEREAS**, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all in interested parties on a proposed local law to amend Chapter 123 of the Town Code entitled “Subdivision of Land” relating to requirements for compliance with storm water pollution prevention; and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on December 20, 2007; and

**WHEREAS**, it is the sense of this Town Board that the adoption of such local law will enhance the health, safety and welfare of the citizens of the Town of Southeast.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 10 of 2007, a copy of which is annexed hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**Town of Southeast, Putnam County, NY**  
**Local Law No. 10 of 2007**

A LOCAL LAW entitled: “**A Local Law to Amend Chapter 123 of the Town Code, ‘Subdivision of Land’.**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

**Section 1. Legislative Intent**

The Town Board of the Town of Southeast seeks to comply with the Municipal Separate Storm Sewer System (MS4) Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES) regulations, administered by New York State through the State Pollutant Discharge Elimination System (SPDES) regulations.

**Section 2. Amendments to Chapter 123**

Section 123-30.E, “Erosion and sediment control plan,” is amended, in part, to read:

- E(1). “An erosion and sediment control plan shall be submitted by the sub-divider setting forth the provisions to be made and measures to be taken to adequately control and minimize erosion and sedimentation on the site of the proposed subdivision or re-subdivision during and

after construction of all improvements thereon and to prevent off-site erosion and sedimentation. The Erosion and Sediment Control Plan shall be prepared in compliance with Chapter 119, “Stormwater Management and Erosion and Sediment Control.”

- H. “A Stormwater Pollution Prevention Plan shall be submitted by the sub-divider for all land disturbance activities one (1) acre or greater setting forth the provisions for controlling stormwater runoff and pollutants from a site during and after construction activities. The Stormwater Pollution Prevention Plan shall be prepared in compliance with Chapter 119, “Stormwater Management and Erosion and Sediment Control.”

I.

Section 123-48.D, “Mitigation of impact of increased drainage flows and velocities,” is amended, in part, to read:

2)(a) “The applicant shall submit a plan for ownership, construction, operation and maintenance of stormwater facilities. This plan shall provide for the inspection, operation and maintenance of each and every component of such facilities and shall specify the methods and procedures to be used to provide and ensure the funds required for such inspection, operation and maintenance and who will be responsible therefore. A four-year performance guarantee shall be provided for the entire stormwater management system by the developer to cover any modifications, corrections, or material failures. In addition, the developer shall fund or otherwise guarantee an inspection and maintenance program for a period of no less than ten (10) years. The Town may require the creation of a stormwater drainage special district to collect revenue and to fund inspection, operation and maintenance of such facilities under the coordination of the Town Engineer and/or Highway Superintendent.

### **Section 3. Validity**

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

### **Section 4. Effective Date**

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

### **RESOLUTION # 71 /2007 ADOPTING LOCAL LAW/AMENDING TOWN CODE CHAPTER 112 “SEWER and WATER”**

Introduced By: Councilman Johnson

Seconded By: Councilwoman Mitts

**WHEREAS**, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to amend Chapter 112 of the Town Code entitled “Sewer and Water” relating to requirements for compliance with storm water pollution prevention; and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on December 20, 2007; and

**WHEREAS**, it is the sense of this Town Board that the adoption of such local law will enhance the health, safety and welfare of the Town of Southeast.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 11 of 2007, a copy of which is annexed hereto and made a part of this resolution; and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against: 0 abstained.

**Town of Southeast, Putnam County, NY  
Local Law No. 11 of 2007**

**A LOCAL LAW entitled: “A Local Law to Amend Chapter 112 of the Town Code, “Sewers and Water”**

**Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:**

**Section 1. Legislative Intent**

The purpose of this Local Law is to provide for the health, safety, and general welfare of the citizens of the Town of Southeast through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law.

**Section 2. Amendments to Article 1, “Sewers”**

§112-1, “Purpose” is amended, in part, to add:

This chapter establishes methods for controlling the introduction of pollutants into the Town’s storm sewer system in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems (MS4s).

§112-2, “Objectives,” is amended, in part to add:

- E. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;
- F. To regulate the contribution of pollutants to the Town’s storm sewer system since such systems are not designed to accept, process or discharge non-stormwater wastes;
- G. To prohibit Illicit Connections, Activities and Discharges to the Town’s storm sewer system;
- H. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and
- I. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the Town’s storm sewer system.

§112-3, “Applicability; administration and enforcement,” is amended, in part to read:

- A. This Article shall apply to the Town of Southeast and to persons outside the town who are, by contract or agreement with the Town, users of a town POTW.

- B. This chapter shall apply to all water entering the Town's storm sewer system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- C. The Stormwater Management System Operator(s) (SMSO(s)) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMSO as may be authorized by the Town.

§112-4, "Definitions" is amended, in part to add and revise:

**BEST MANAGEMENT PRACTICES (BMPs)** - Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**CLEAN WATER ACT** - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY** - Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**DESIGN PROFESSIONAL** – New York State licensed professional engineer or licensed architect.

**HAZARDOUS MATERIALS** - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**ILLICIT CONNECTIONS** - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the Town's storm sewer system, including but not limited to:

- A. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE** - Any direct or indirect non-stormwater discharge to the MS4, except as exempted herein.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM** – A facility serving one or more parcels of land or residential households, or a private, commercial, or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

**INDUSTRIAL ACTIVITY** - Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.



**MS4 - MUNICIPAL SEPARATE STORM SEWER SYSTEM.** Municipal Separate Storm Sewer System (MS4) - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- A. Owned or operated by the Town of Southeast;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works (POTW), for treatment of sewage, as defined at 40CFR 122.2.

**NON-STORMWATER DISCHARGE** - Any discharge to the MS4 that is not composed entirely of stormwater.

**NYSDEC** - The New York State Department of Environmental Conservation.

Revise the definition of “POLLUTANT” to read: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the State in contravention of the standards.

**PREMISES** - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**SPECIAL CONDITIONS** – Conditions that may affect the Town of Southeast’s coverage under GP-02-03 as follows:

- A. Discharge Compliance with Water Quality Standards. The condition that applies where the Town of Southeast has been notified that the discharge of stormwater authorized under GP-02-02 MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d) Listed Waters. The condition in the Town’s MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. Total Maximum Daily Load (TMDL) Strategy. The condition in the Town’s MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in the Town’s MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the Town must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Town must, within six (6) months of the TMDL’s approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

Revise the definition of “STORMWATER” to read: – Any flow occurring during or following any form of natural precipitation and resulting there from including rainwater, surface runoff, snowmelt and drainage.

**STORMWATER MANAGEMENT SYSTEM OPERATOR AND SEWER INSPECTOR**

– The Town Highway Superintendent or other public official(s) designated by the Town of Southeast to enforce this chapter. The responsible person may also be designated by the Town to inspect stormwater management practices, systems and related improvements. The designated person may also inspect and approve the installation of building sewers and connection of the building sewers to the public sewer system.

**SURFACE WATERS OF THE STATE OF NEW YORK** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the State (such as a disposal area in wetlands) nor resulted from impoundment of waters of the State.

**303(d) List** - A list of all surface waters in the State for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the NYSDEC as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of State surface water quality standards and are not expected to improve within the next two years.

**TMDL - TOTAL MAXIMUM DAILY LOAD** - The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

**WASTEWATER** - Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§112-5. “Discharge Regulations” is revised such that the title reads “Discharge Regulations: POTWs.”

**Section 3. The following regulations are hereby created:**

Article III “Illicit Discharge Detection and Elimination to Separate Storm Sewer System.”

§112-16. “Prohibition of Illicit Discharges and Connections.”

No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Section 112-16A(1)below. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as set forth below:

- (1) The following discharges are exempt from discharge prohibitions established by this chapter, unless the NYSDEC or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, roof drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, de-chlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any other water source not containing pollutants. Such

exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

- (2) Discharges approved in writing by the SMSO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMSO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.
- (3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMSO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the NYSDEC, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

**B. Prohibition of Illicit Connections.**

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Town's MS4, or allows such a connection to continue.

**§112-17. "Prohibition against failing individual sewage treatment systems."**

No persons shall operate a failing individual sewage treatment system in areas tributary to the Town's storm sewer system. A failing individual sewage treatment system is one that has one or more of the following conditions.

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

**§112-18. "Prohibition against Activities Contaminating Stormwater."**

Activities that are subject to the requirements of this section are those types of activities that:

- A. Cause or contribute to a violation of the Town's coverage under GP-02-02 or its successor SPDES General Permit.
- B. Cause or contribute to the Town being subject to the Special Conditions as defined in Section 112-4, Definitions, of this chapter.
- C. Include failing individual sewage treatment systems as defined in § 112-17, improper management of pet waste or any other activity that causes or contributes to violations of the Town's coverage under GP-02-02 or its successor SPDES General Permit.

§112-19. “Enforcement, Notification and Remedy of Illicit Discharges, Connections and Contamination.”

- A. When the Town’s SMSO finds that a person has violated a prohibition or failed to meet a requirement of this Chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The elimination of illicit connections or discharges;
  - (2) That violating discharges, practices, or operations shall cease and desist;
  - (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (4) The performance of monitoring, analyses, and reporting;
  - (5) Payment of a fine; and
  - (6) The implementation of source control or treatment BMP. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- B. Where individual sewage treatment systems are contributing flow to the Town’s separate storm sewer system, the owner or operator of such individual sewage treatment systems shall be required to:
- (1) Maintain and operate individual sewage treatment as follows:
    - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within ten inches of the bottom of the outlet baffle or sanitary tee.
    - (b) Avoid the use of septic tank additives.
    - (c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
    - (d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.
  - (2) Repair or replace individual sewage treatment systems, as necessary:
    - (a) In accordance with 10 NYCRR Appendix 75A to the maximum extent practicable, and designed by a professional licensed to practice in New York State who shall prepare design plans for any type of absorption field that involves:
      1. Relocating or extending an absorption area to a location not previously approved for such.
      2. Installation of a new subsurface treatment system at the same location.
      3. Use an alternate system or innovative system design or technology.
    - (b) A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town’s coverage under GP-02-02, that person shall take all reasonable actions to properly respond to such notification and to correct

such activities such that he or she no longer causes or contributes to violations of the Town's coverage under GP-02-02 in accordance with the procedures herein.

- D. The following notification and response procedures shall be followed if illicit discharges or connections or activities contaminating stormwater are identified:
- (1) The SMSO shall provide notification by certified or registered mail, return receipt requested, and shall file a copy of the notice with the Town Clerk within five (5) days of identification of an illicit discharge, connection or an activity contaminating stormwater.
  - (2) A written response shall be provided from the person notified within five (5) days of receipt of the notice of violation providing a brief description of the intended remedy to the violation.
  - (3) A detailed response and related plans showing the proposed remedy to the violation shall be submitted to the SMSO within 21 days of the receipt of the notice along with any required forms and payment of required fees as follows:
    - (a) Additional copies of the response and plans shall be provided as required by the SMSO.
    - (b) The proposed remedy shall address the purposes and intent of this Chapter, appropriate BMPs, and all pertinent requirements and standards contained in this Chapter.
    - (c) A copy of any other applications for land disturbance or development activities on the site, including stormwater permits shall be provided.
    - (d) The proposal shall include a reasonable timeline for completion of the remedial activities.
  - (4) A review of the response and plans shall be conducted by the SMSO, or an authorized representative of the SMSO, and as deemed necessary, the Town Engineer and other officials or representatives of the Town.
  - (5) An on-site evaluation of proposed remedy shall be conducted by the SMSO, or an authorized representative of the SMSO, and as deemed necessary, the Town Engineer and other reviewers.
  - (6) The detailed response and plans shall be revised and resubmitted for additional review, including any necessary reports or studies. The submitted materials shall be revised as requested by the SMSO or his authorized representative, the Town Engineer and other reviewers until all concerns have been addressed.
  - (7) The SMSO shall provide authorization to proceed with the proposed remedy, including a specific timeline for completion of BMPs and all related improvements.
  - (8) Inspection of the site shall be conducted by the SMSO, his authorized representative, or the Town Engineer during and after site remediation.
- E. In addition to, or as an alternative to, any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes 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. Each week's continued violation shall constitute a separate additional violation.

§112-20. "Requirement To Prevent, Control And Reduce Stormwater Pollutants By The Use Of Best Management Practices."

Where the SMSO has identified illicit discharges or illicit connections or activities contaminating stormwater, as defined in Section 112-4 and as set forth in Sections 112-16, 112-17, and 112-18, above, the Town may require implementation of Best Management Practices (BMPs) to control those illicit discharges, connections and activities. Similarly, in response to a notice of violation, BMPs shall be employed, as necessary.

- A. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
- B. Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge or connection, or an activity contaminating stormwater, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- C. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

§112-21. "Suspension of Access to the Town's storm sewer system."

The following provisions apply to illicit discharges resulting from emergency situations:

- A. The SMSO may, without prior notice, suspend discharge access to the Town's storm sewer system to a person when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the Town's storm sewer system. The SMSO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMSO may take such steps as deemed necessary to prevent or minimize damage to the Town's storm sewer system or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the Town's storm sewer system in violation of this law may have their Town's storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The SMSO will notify a violator in writing of the proposed termination of its Town's storm sewer system access and the reasons therefore. The violator may petition the SMSO for a reconsideration and hearing. Access may be granted by the SMSO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMSO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMSO.

§112-22. "Industrial or Construction Activity Discharges."

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

§112-23. "Access and Monitoring of Discharges."

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This section applies to all facilities that the SMSO must inspect to enforce any provision of this Chapter, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Chapter.

- A. The SMSO shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMSO.
- B. Facility operators shall allow the SMSO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this chapter.
- C. The Town shall have the right to set up on any facility subject to this chapter such devices as are necessary in the opinion of the SMSO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- D. The Town has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- E. Any unreasonable delay in allowing the Town access to a facility subject to this chapter is a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Town reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.
- F. If the SMSO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMSO may seek issuance of a search warrant from any court of competent jurisdiction.

#### §112-24. “Notification of Spills.”

Notwithstanding other requirements of chapter, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### §112-25. “Appeal of Notice of Violation.”

Any person receiving a Notice of Violation may appeal the determination of the SMSO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the Town Clerk and mail a copy of its decision by certified mail to the discharger.

§112-26. “Corrective Measures After Appeal.”

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the municipal authority upholding the decision of the SMSO, then the SMSO shall request the owner’s permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMSO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMSO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§112-27. “Injunctive Relief.”

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the SMSO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§112-28. “Alternative Remedies.”

- A. Where a person has violated a provision of this Chapter, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the Code Enforcement Officer, where:
  - (1) The violation was unintentional.
  - (2) The violator has no history of pervious violations of this Chapter.
  - (3) Environmental damage was minimal.
  - (4) Violator acted quickly to remedy violation.
  - (5) Violator cooperated in investigation and resolution.
- B. Alternative remedies may consist of one or more of the following:
  - (1) Attendance at compliance workshops;
  - (2) Storm drain stenciling or storm drain marking; and
  - (3) River, stream or creek cleanup activities.

§112-29. “Violations Deemed a Public Nuisance.”

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator’s expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§112-30. “Remedies Not Exclusive.”

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local chapter and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

**Section 4. Validity**



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

## **Section 5. Effective Date**

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

### **RESOLUTION # 72 /2007 ADOPTING LOCAL LAW/ADDING TOWN CODE CHAPTER 119-“STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL”**

Introduced By: Councilman Bonanno

Seconded By: Councilwoman Mitts

**WHEREAS**, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local law to add Chapter 119 to the Town Code entitled “**Stormwater Management and** prevention: and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on December 20, 2007; and

**WHEREAS**, it is the sense of this Town Board that the adoption of such local law will enhance the health, safety and welfare of the citizens of the Town of Southeast.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 12 of 2007, a copy of which is annexed hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

### **UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**Town of Southeast, Putnam County, NY  
Local Law No. 12 of 2007**

A LOCAL LAW entitled: “**A Local Law to Add Chapter 119 of the Town Code, ‘Stormwater Management and Erosion and Sediment Control’.**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

## **Section 1. Legislative Intent**

The Town Board of the Town of Southeast seeks to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to comply with the Municipal Separate Storm Sewer System (MS4) Phase II stormwater management requirements of the National Pollutant Discharge Elimination System (NPDES) regulations, administered by New York State through the State Pollutant Discharge Elimination System (SPDES) regulations.

**Section 2. The following regulations are hereby created:**

**Article 1, “General Provisions”**

§ 119-1. Findings of Fact

It is hereby determined that:

Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition.

- A. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.
- B. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.
- C. Improper design and construction of Stormwater Management Practices (SMPs) can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.
- D. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.
- E. Substantial economic losses can result from these adverse impacts on the waters of the municipality.
- F. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.
- G. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- H. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 119-2. Purpose

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of Southeast and to address the findings of fact in Section 1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of Minimum Measures 4 and 5 of the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater

Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit GP-02-02 or as amended or revised.

- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities Permit GP-02-01 or as amended or revised.
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels.
- D. Minimize increases in pollution caused by stormwater runoff from land development activities, which would otherwise degrade local water quality.
- E. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development to the maximum extent practicable.
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

G.

## **Article II, "Definition of Terms"**

### **§ 119-3. Definitions**

For the purpose of this chapter, certain words and terms used herein are defined as follows:

**AGRICULTURAL OPERATION** — See "farming operation."

**APPLICANT** — A property owner or agent of a property owner who has filed an application for a land development activity.

**BEST MANAGEMENT PRACTICE (BMP)** — Methods, measures or practices to prevent or reduce surface runoff and/or water pollution, including but not limited to, structural and non-structural stormwater management practices and operation and maintenance procedures.

**BUILDING** — Any structure, either temporary or permanent, or extension thereof or addition thereto, having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of any persons, animals or property.

**CHANNEL** — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING** — Any activity that removes the vegetative surface cover.

**CONTROLLED AREA** — The area that includes all wetlands and the area surrounding the same based on hydrological soil grouping and all watercourses and adjacent contributory surfaces based on hydrological soil grouping and slope percentage as fully defined in Chapter 78.

**DEDICATION** — The deliberate appropriation of property by its owner for general public use.

**DESIGN MANUAL** — The New York State Stormwater Management Design Manual, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

**DETENTION BASIN** — An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event and are dry until the next rainfall event.

**DEVELOPER** — A person who undertakes land development activities.

**EROSION** — The wearing away of land surface by water or wind which occurs naturally from weather or runoff, but is often intensified by human activity.

**EROSION CONTROL MANUAL** — The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**FARMING OPERATION** — Any operation on a parcel of land, not less than four acres, that is used for soil-dependent cultivation of agricultural crop production and/or the raising of livestock, poultry or dairy products, raising of fur-bearing animals, the keeping of horses and livery or boarding stables, but excluding riding academies and dog kennels.

**GRADING** — Excavation or fill of material, including the resulting conditions thereof.

**IMPERVIOUS COVER** — See ‘Impervious Surface’

**IMPERVIOUS SURFACE** — A surface that has been compacted or covered with a layer of material so that it is resistant to infiltration by water. It includes semi-pervious surfaces such as compacted clayey soils, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar surfaces. “Net increase of impervious surface” refers to the difference between the existing coverage and the total impervious surface proposed.

**INDUSTRIAL STORMWATER PERMIT** — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION** — The process of percolating stormwater into the subsoil.

**INTERMITTENT STREAM** — A defined channel in which surface water is absent during a portion of the year, as ground water levels drop below the channel bottom.

**JURISDICTIONAL WETLAND** — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. This includes any area that meets the definition of wetlands according to the Town’s freshwater wetlands regulations.

**LAND DEVELOPMENT ACTIVITY** — Construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 5,000 square feet. Any activity that requires review, approval and/or permitting under the Town’s requirements and regulations for fill, wetlands, sand and gravel and tree removal, streets and sidewalks, subdivision and site development plan, regardless of the size in area of the activity, is also considered a land development activity.

**LANDOWNER** — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**MAINTENANCE AGREEMENT** — A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**NON-POINT SOURCE POLLUTION** — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

**NON-STRUCTURAL STORMWATER MANAGEMENT PRACTICES** — Passive, site design approaches or regulatory approaches that provide water quality improvement or reduce or minimize the generation of stormwater runoff without requiring the construction of specific or discrete stormwater management control structures.

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

**PHASING** — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN** — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT** — Land development activity.

**RECHARGE** — The replenishment of underground water reserves.

**SEDIMENT CONTROL** — Measures that prevent eroded sediment from leaving the site.

**SENSITIVE AREAS** — Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special concern species.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of 5,000 square feet of land.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM**

**MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**STABILIZATION** — The use of practices that prevent exposed soil from eroding.

**STOP WORK ORDER** — An order issued that requires that all land development activity and/or construction activity on a site is stopped.

**STORMWATER** — Rainwater, surface runoff, snowmelt and drainage.

**STORMWATER HOTSPOT** — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**STORMWATER MANAGEMENT** — The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORMWATER MANAGEMENT FACILITY** — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**STORMWATER MANAGEMENT PRACTICES (SMP)** — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF** — Flow on the surface of the ground, resulting from precipitation.

**SURFACE WATERS OF THE STATE OF NEW YORK** — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**WATERCOURSE** — A permanent or intermittent stream or other body of water, either natural or man-made that gathers or carries surface water. This includes any area that meets the definition of a watercourse according to the Town’s freshwater wetlands regulations.

**WATERWAY** — A channel that directs surface runoff to a watercourse or to the public storm drain. This includes any area that meets the definition of a waterway according to the Town’s freshwater wetlands regulations.

**WETLAND** — Lands and water meeting the criteria identified in Section 78-2.A of the Town of Southeast Code.

### **Article III, “Applicability”**

#### **§119-4. Applicability**

- A. This chapter shall be applicable to all land development activities as defined in this chapter as follows:
  - (1) Construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance between 5,000 square feet and one acre requires submission of a standard erosion and sediment control plan as defined in §119-6.A.
  - (2) Construction activity including clearing, grubbing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of one (1) acre or more requires submission of a Stormwater Pollution Prevention Plan (SWPPP) as defined in §119-6.B-E.
- B. The Town Engineer or a designated representative shall review all stormwater pollution prevention plans.
- C. All land development activities subject to review and approval by the Planning board of the Town of Southeast under subdivision, zoning, wetlands or other requirements or regulations noted herein shall be reviewed subject to the

standards contained in this chapter. The review of the Erosion and Sediment Control Plans and/or Stormwater Pollution Prevention Plan (SWPPP) shall run concurrently with the procedure for review, approval and permitting under the other above noted regulations.

- D. All land development activities not subject to review as stated in Section 119-3.C., above, shall be required to submit an Erosion and Sediment Control Plan and/or Stormwater Pollution Prevention Plan (SWPPP) to the Building Department who shall review the SWPPP in consultation with the Town Engineer and in accordance with the requirements of this law.

§119-5. Exemptions

The following activities may be exempt from review:

- A. Farming or agricultural operation as defined in this chapter.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this chapter.
- C. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Town Engineer.
- E. Land development activities for which a building permit has been approved on or before the effective date of this chapter.
- F. Emergency activity immediately necessary to protect life, property or natural resources.
- G. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Southeast on or before the effective date of this chapter.
- H. Cemetery graves.
- I. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable, and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.

**Article IV, “Erosion and Sediment Control Plans and Stormwater Pollution Prevention Plans”**

§119-6. Erosion and Sediment Control Plans and Stormwater Pollution Prevention Plan Requirement and Contents

- A. Any application for approval of a land development activity that will result in land disturbance between 5,000 square feet and one (1) acre shall submit an Erosion and Sediment Control Plan prepared in accordance with the most current version of Appendix E (Erosion and Sediment Control Plan for Small Home site Construction) of the New York Standards and Specifications for Erosion and Sediment Control. The submittal shall include: the appropriate application forms, fees in accordance with the Code of the Town of Southeast; and required plans.
- B. Any application for approval of a land development activity that will result in land disturbance equal to or greater than one (1) acre shall submit a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this chapter. The submittal shall include: the appropriate application forms; fees in accordance with the Code of the Town of Southeast; and the plans and materials described below. The submittal shall address the SWPPP requirements and contents, below, and the performance and design criteria set forth elsewhere in this chapter.

- C. Stormwater runoff from land development activities in Southeast may discharge a pollutant of concern (phosphorus) to either an impaired water identified on the NYSDEC's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment. Therefore, erosion and sediment controls and water quantity and water quality controls (post-construction stormwater runoff controls) must be addressed.
- D. All SWPPPs shall provide the following background information and erosion and sediment controls. Plans shall be at a scale no smaller than 1"=50' and should be prepared by and bear the name, signature and seal of a professional engineer, landscape architect or certified professional, as required by law and licensed by the State of New York. Elements of such plans and related studies and materials may be prepared by other designers or technicians as authorized by law and noted on the documents submitted. The professional preparing the plan shall certify that the design of all Stormwater Management Practices (SMPs) meets the requirements in this chapter. The following information and plans shall be provided:
  - (1) Background information about the scope of the project, including location, type and size of project.
  - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
  - (3) Description of the soil(s) present at the site;
  - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
  - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
  - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;
  - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
  - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
  - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
  - (10) Temporary practices that will be converted to permanent control measures;
  - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;



- (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (13) Name(s) of the receiving water(s);
  - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - (16) Any existing data that describes the stormwater runoff at the site.
- E. All SWPPPs shall provide the following water quantity and water quality controls (post-construction stormwater runoff controls) in accordance with the same standards for plan scale and preparation required for erosion and sedimentation controls, as set forth in §119-6D:
- (1) Description of each post-construction stormwater management practice;
  - (2) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - (3) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
  - (4) Comparison of post-development stormwater runoff conditions with pre-development conditions;
  - (5) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  - (6) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
  - (7) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
  - (8) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article V of this chapter.
- F. The Planning Board or the Building Department (for applications for land development activity not requiring Planning Board approval), upon written request by the applicant, may consider a waiver of specific provisions of these regulations. The written request from the applicant must include reasoning for each of the provisions to be waived. The Planning Board or the Building Department may waive specific provisions if requested provided that: in its judgment the particular circumstances of the proposed land development activity are not requisite in the interest of the public health, safety and general welfare; and the waiver of same will still result in an Erosion and Sediment Control and/or SWPPP that is consistent with the Findings and Purpose of this Chapter as stated herein. No waiver shall be granted that would limit, reduce or impair the effectiveness of any other law applicable to the land development activity.

§ 119-7. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land disturbance activities shall be subject to the following performance and design criteria:

(A) Technical Standards

- (1) For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management

practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards of this chapter:

- (a) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
  - (b) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- (2) Equivalence to Technical Standards
- (a) Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in §119-8.A and the SWPPP shall be prepared by a licensed professional.
- (3) Water Quality Standards
- (a) Post-construction stormwater management controls shall be designed in accordance with the most current version of the New York State Department of Environmental Conservation Enhanced Phosphorus Removal Design Criteria.

#### §119-8. Review Procedure

- A. Regulated activities subject to administrative permit. At the discretion of the Building Department, any land development activity that does not require review by the Planning Board and is a regulated activity under §119-3 requires an administrative permit subject to the requirements of this chapter.
- B. Regulated activities subject to review of Planning Board. Any applicant proposing to conduct a land development activity that requires Planning Board review as defined in §119-3 shall file a complete application, plans and materials as part of the application submission to the Planning Board in accordance with the SWPPP requirements, contents and performance and design criteria set forth herein.
- C. The submittal to the Building Department or Planning Board shall include the original application and the number of copies of all forms, plans and materials necessary as determined by the Building Department or Planning Board to distribute to all reviewers, including the Town Engineer; and any related consultant or agency. The submittal shall be organized by the applicant into identical packets containing all forms, plans and materials for each reviewer. Upon receipt of all required plans and materials and fees, the Building Department or Planning Board shall distribute to the Town Engineer and all reviewers and may send multiple packets to a reviewing board to distribute to their members.
- D. The Town Engineer shall review the plans and materials and provide a written report to the Planning Board or the Building Department. The Engineer's report shall indicate whether the application, plans and materials are complete for the purpose of granting approval, including performance and design criteria, and indicating what must be provided to make the application complete and properly designed. The applicant must revise and resubmit the application, plans and materials to fully address the Erosion and Sediment Control Plan and/or SWPPP requirements set forth herein and the Engineer's comments. The steps of engineering review, report and application revision and re-submittal shall be repeated until the application, plans and related materials are complete and properly address the performance and design criteria set forth herein.
- E. Action on applications subject to review by the Planning Board. Any land development activity subject to review and approval and/or permitting under the Town's requirements and regulations for fill, wetlands, sand and gravel and tree removal, streets and sidewalks, subdivision and site development plan and/or zoning requirements shall be reviewed subject to the requirements and standards contained in this chapter. The review of the Erosion and Sediment Control Plan and/or Stormwater Pollution Prevention Plan (SWPPP) shall run concurrently

with the procedure for review, approval and permitting under the other above noted regulations. Upon review of the land development activity and the accompanying Erosion and Sediment Control Plan and/or SWPPP, the consulting Town Engineer shall provide a written recommendation to the Planning Board indicating that approval of the Erosion and Sediment Control and/or SWPPP be granted; granted with conditions and/or modifications; or denied. Any recommendation for denial shall provide specific reasoning for the decision.

- F. Action on applications subject to administrative permit. In the event that there is no other review, approval or permitting process involving the Planning Board or another reviewing Town agency, the Town Engineer shall provide a written recommendation to the Building Department indicating that a Permit for the Erosion and Sediment Control Plan and/or SWPPP be granted; granted with conditions and/or modifications; or denied. Any recommendation for denial shall provide specific reasoning for the decision.

#### §119-9. Contractor Certification

- A. Each contractor and subcontractor identified in the Erosion and Sediment Control Plan and/or SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: “I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Erosion and Sediment Control Plan and/or Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards.”
- B. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C. The certification statement(s) shall become part of the Erosion and Sediment Control Plan and/or SWPPP for the land development activity.
- D. A copy of the Erosion and Sediment Control Plan and/or SWPPP, including the above certifications, shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

#### §119-10. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control.

All land development activities shall be subject to the following performance and design criteria:

- A. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law (The New York State technical guidance documents may be ordered from the NYSDEC and may be available on the Internet):
  - (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
  - (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2005, most current version or its successor, hereafter referred to as the Erosion Control Manual).
- B. Where stormwater management practices are not in accordance with the technical documents, described in §119-10.A above, which are official guides that provide specifications, the applicant or developer must demonstrate equivalence to the technical standards contained in these documents, and the Erosion and Sediment Control Plan and/or SWPPP shall be prepared by a licensed professional.

- C. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

## **Article V, “Maintenance, Inspection and Repair”**

### **§119-11.Maintenance, Inspection and Repair of Stormwater Facilities**

- A. The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
- B. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Town of Southeast Building Department and also copied to the site log book.

### **§119-12.Maintenance Easement(s)**

Prior to the issuance of any approval that has a stormwater management facility, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall be in a form acceptable to the Town Attorney and shall provide for access to the facility at reasonable times for periodic inspection by the Town of Southeast to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Town Attorney for the Town of Southeast.

### **§119-13.Maintenance Agreement**

The applicant shall submit a plan for ownership, construction, operation and maintenance of stormwater facilities. This plan shall provide for the inspection, operation and maintenance of each and every component of such facilities and shall specify the methods and procedures to be used to provide and ensure the funds required for such inspection, operation and maintenance and who will be responsible therefore. A four-year performance guarantee shall be provided for the entire stormwater management system by the developer to cover any modifications, corrections, or material failures. In addition, the developer shall fund or otherwise guarantee an inspection and maintenance program for a period of no less than ten (10) years. The Town may require the creation of a stormwater drainage special district to collect revenue and to fund inspection, operation and maintenance of such facilities under the coordination of the Town Engineer and/or Highway Superintendent.

### **§119-14.Administration and Inspection**

- A. The Town of Southeast may require inspections as necessary to determine compliance with this chapter at various stages in construction to examine erosion and sediment controls and SMPs. Inspections may be conducted by the Building Department, the Highway Superintendent, or the Town Engineer. The person conducting inspections may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the erosion and sediment control plan and/or stormwater pollution

prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the relevant Town of Southeast enforcement official at least 48 hours before any of the following as required by the Building Department or the Town Engineer:

- (1) Start of construction;
- (2) Installation of sediment and erosion control measures;
- (3) Completion of site clearing;
- (4) Completion of rough grading;
- (5) Installation of SMPs;
- (6) Completion of final grading;
- (7) Close of the construction season;
- (8) Completion of final landscaping; and
- (9) Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Building Department or the Town Engineer.

- B. The Building Department is responsible for conducting inspections of stormwater management practices (SMPs) or delegating such inspections to the Town Engineer. All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- C. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
- D. The Building Department or the Town Engineer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Town of Southeast the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.
- F. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Southeast in its approval of the Erosion and Sediment Control Plan and/or Stormwater Pollution Prevention Plan, the Town of Southeast may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution that guarantees satisfactory completion of the project and names the Town of Southeast as the beneficiary. The security shall be in an amount to be determined by the Town of Southeast based on submission of final design plans,

with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Southeast, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Town of Southeast. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

- G. The Town of Southeast may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§119-15. Enforcement and Penalties

- A. When the Town of Southeast determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
  - (2) The address when available or a description of the building, structure or land upon which the violation is occurring;
  - (3) A statement specifying the nature of the violation;
  - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
  - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
  - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.
- B. The Town of Southeast may issue a stop work order for violations of this chapter. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Town of Southeast confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. In addition to, or as an alternative to, any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes 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. Each week's continued violation shall constitute a separate additional violation.

- E. If any building or land development activity is installed or conducted in violation of this chapter the Town of Southeast may prevent the occupancy of said building or land.
- F. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Southeast may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
- G.

### **Section 3.      Validity**

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

### **Section 4.      Effective Date**

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

### **MOTION-SEORA**

Councilman Johnson made a motion for the SEQRA Determination of Significance to Amend Chapter 138 Town Code “Zoning” Regarding Rt. 22 Area Plan. Councilman Honeck seconded. All in favor.

### **RESOLUTION # 73 2007 ADOPTING LOCAL LAW AMENDING CHAPTER 138 “ZONING” TO ESTABLISH THE ROUTE 22 AREA PLAN**

Introduced By Councilman Honeck  
Seconded By: Supervisor Dunford

**WHEREAS**, a resolution having been adopted by the Town Board of the Town of Southeast for a public hearing to be held by said Town Board to hear all interested parties on a proposed local laws to amend the Southeast Town Code to amend Chapter 138 of the Code of the Town of Southeast entitled “Zoning”, and

**WHEREAS**, notice of said public hearing was advertised in an official newspaper of the Town of Southeast in the manner prescribed by law and such public hearing was held on August 16, 2007; and

**WHEREAS**, it is the Town Board finds and declares that the purpose of this local law is to protect the public health, safety and general welfare and to promote the orderly and safe development of certain areas of the town in accordance with the goals and objects of the Town’s Comprehensive Plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Southeast hereby adopts Local Law No. 13 of 2007 pursuant to the Municipal Home Rule Law amending Chapter 138 of the Southeast Town Code, a copy of which is annexed hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and hereby is authorized and directed to enter said Local Law in the minutes of this meeting and in the Code Book of the Town of Southeast, and to give due notice of the adoption of said local law to the Secretary of State of New York within the time required by law.

### **UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained

**Town of Southeast, Putnam County, NY**  
**Local Law No. 13 of 2007**

A LOCAL LAW entitled: “**A Local Law to Amend Chapter 138 of the Town Code, ‘Zoning’.**”

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

**Section 1. Legislative Intent**

The Town Board of the Town of Southeast has embarked upon a process of updating its local land use regulations to protect the community character and environmental quality of the Town.

The Town of Southeast Comprehensive Plan notes that new commercial development, especially along gateway corridors, if not properly designed, may have negative impacts on water quality, traffic flow, and community character.

The Comprehensive Plan specifically identifies special treatment of new uses in the following area to protect water quality and community character:

- Route 22 north of Milltown Road -- new commercial uses here would promote this area as the main shopping district within the Town. Design guidelines should be established to ensure the visual appeal of this gateway area.

**Section 2. Property Affected.**

The premises affected by this rezoning are described and generally known as the existing HC-2 Zoning District in the Town of Southeast. This HC-2 zone would be replaced by the Special Route 22 Area District.

**Section 3. Amendments to Article II, “Establishment of Districts; Map”**

Section 138-5, “Districts Enumerated” is amended as follows:

Add:

<b>District</b>	<b>Map Code</b>
Special Route 22 Area District	RT22

**Section 4. Amendments to Article V, “Nonresidential Districts”**

Section 138-24, “General” the Commercial Zoning Schedule is amended, in part, by replacing the identified portions of the column labeled “Permitted Principal Uses (see Notes G and N)” with the following:

Special Route 22 Area District	<b>Special Permit Uses</b> Retail Use Office Personal Services Professional Services Restaurant Recreation
--------------------------------	--

Section 138-24, “General,” is further amended by removing all bulk and dimensional standards related to the HC-2 from the Commercial Zoning Schedule.

**Section 5. Amendments to Article X, “Special Permits and Conditional Uses”**

Add: Section 138-63.6, “Special Route 22 Area District.”



- A. All applications for development within the Special Route 22 Area District shall require site plan approval in compliance with Article IX, “Site Plan Review and Approval,” and shall require Special Permit approval from the Town Board in compliance with this Section. The provisions of §138-63.5, “Retail,” are specifically superseded by this Section for any Retail use proposed in the Special Route 22 Area District, but remain in effect for any Retail use proposed in any other Zoning District.
- B. Dimensional Standards. All new construction shall be designed to be consistent with the Route 22 Area Master Plan and Aerial View but in no case shall overall Floor Area Ratio for a parcel exceed 0.15 and building height shall not exceed 35 feet. The Town Board may allow a single anchor tenant exceeding 50,000 square feet in Gross Floor Area, subject to the provisions of §138-63.6(C)(2)(a)[1], when the Town Board determines that such a use will be necessary to ensure the viability of commercial activity within the Special Route 22 Area District. Such a larger use may only be considered as part of an integrated master plan that implements a substantial majority of the Route 22 Area Master Plan.
- C. Design guidelines. All uses within the Special Route 22 Area District shall be consistent with the Route 22 Area Master Plan Conceptual Building Elevations and Conceptual Streetscape. In addition, the Planning Board, when considering design elements relevant to the site plan, and the Town Board, when considering overall design of a project relevant to the Special Permit, shall consider the application’s conformance to the following Design Guidelines in considering approval or denial of the application. In any case where any provision within these Design Guidelines appears to conflict with the Route 22 Area Master Plan drawings, the Town Board shall have the sole authority to consider which provision shall apply.

(1) Site Design

(a) Building Location

- [1] Buildings shall be oriented on-site to avoid disturbance to sensitive natural and topographic features to the maximum extent practicable while presenting a “public face” to major roads.
- [2] Multiple buildings on a single site shall be oriented to achieve a unified character for the site. Individual buildings shall not be isolated by large expanses of parking lots in order to encourage safe pedestrian movement within the site.

(b) Site Access

- [1] Driveway entrances and exits onto any street shall be provided in such a manner that no undue traffic hazards or traffic congestion will be created. Interconnections between properties and/or shared driveways shall be provided wherever possible. Driveway entrances on Route 22, where provided, shall be spaced a minimum of 300 feet apart. Driveways shall not exceed 30 feet in width at the street line unless a greater width is required by the County of Putnam or State of New York.
- [2] Implementation of the Special Route 22 Area District shall follow the Route 22 Collector Road alignment as indicated in the Town of Southeast Comprehensive Plan.

(c) Parking Lots

- [1] Parking rates shall be calculated using the Urban Land Institute Shared Parking methodology to calculate appropriate parking requirements for proposed uses.
- [2] Any parking spaces provided above the required number shall be in a separate parking area utilizing a pervious paving technique. Alternatively,

additional parking areas may be “land-banked” for future development depending on use.

- [3] All required parking shall be provided in parking areas that are designed and laid out to avoid uninterrupted stretches of paved surfaces. Parking areas may be separated from each other by drive aisles, pedestrian walkways, stormwater management facilities, or landscaped areas. Parking areas to the rear or side of buildings are preferred to parking areas in front of (between the major street and any side of) a building. Rear entrances to tenant spaces shall be considered in the overall site design process. Underground or structured parking may be considered and shall not be included in Gross Floor Area.
- [4] Individual parking stalls shall be nine (9) feet by eighteen (18) feet except as required to meet Americans with Disabilities Act (ADA) requirements. Parking stalls in employee parking areas may be eight (8) feet by eighteen (18) feet.
- [5] Parking areas shall have a minimum 10-foot wide, curbed planting island around the perimeter with appropriate gaps for vehicular access. Such raised planting islands and the landscaping within them shall be designed and arranged in such a way as to provide vertical definition to major traffic circulation aisles, entrances and exits, to channel internal traffic flow and prevent indiscriminate diagonal movement of vehicles and to provide relief from the visual monotony and shadeless expanse of a large parking area. Planted bio-swales may be substituted for raised parking islands.
- [6] Large parking areas of 50 spaces or more shall have additional planting islands a minimum of eight (8) feet in width within the parking area between every second parking module (defined as a 60-foot-wide area containing two rows of parking separated by a drive aisle).
- [7] There shall be a provision for separate pedestrian flow to building entrance(s) outside of drive aisles for each parking area.
- [8] Twenty-five (25) percent of calculated required parking shall be provided in a designated employee-only parking area that utilizes a pervious paving technique. Where possible, this parking area shall be located to the rear of any building(s).
- [9] Twenty-five (25) percent of calculated required parking shall be provided in an overflow area that shall be physically separated from other parking areas by lawn or other vegetated area.
- [10] At least one tree, not less than three (3) inches in caliper measured three (3) feet above ground level at time of planting, shall be provided within a planting island for each ten (10) parking spaces in the parking area.
- [11] Bicycle parking racks shall be provided in a location no further than 200 feet from a building entrance and not to the rear of any building.

(e) Circulation to Adjoining Parcels

- [1] Where any use adjoins another parcel with existing commercial development every opportunity for connecting parking areas and/or driveways shall be explored to avoid separate curb-cuts onto major roads.
- [2] Where any use adjoins a vacant commercially-zoned parcel a stub driveway shall be established in a location conducive to creating a future internal connection point.

(f) Pedestrian Environment

- [1] Pedestrian-scale public spaces (pedestrian walkway, square, or plaza) shall be integrated into the overall site plan to provide meaningful circulation and seating areas.
- [2] Pedestrian amenities such as seating or dining areas, fountains, gazebos, kiosks, or other such features shall be provided in any square or plaza. Amenities associated with public transit or bicycle use (bus waiting shelter, information kiosk with bus schedule, bicycle racks, or taxi waiting area) shall be incorporated into public spaces on the site.
- [3] A pedestrian walkway shall be a minimum of ten (10) feet in width and shall have street trees planted forty (40) feet on center at a minimum (not less than three (3) inches in caliper measured three (3) feet above ground level at time of planting). Pedestrian walkways offering access between buildings and/or providing access to rear parking areas are not required to have planting areas or street trees.
- [4] A square or plaza shall be a minimum of thirty (30) feet in any dimension and shall include a vegetated area covering a minimum of fifty (50) percent of the total area when any one linear dimension of the square or plaza equals or exceeds fifty (50) feet. (Pedestrian walkways shall not be required to meet this standard).
- [5] Building(s) shall be designed to have a front façade that has at least one (1) principal functional entry from a pedestrian walkway, square, or plaza.
- [6] No ground-level façade shall have blank (without doors or windows) walls longer than 50 feet along any pedestrian walkway, square, or plaza. Public art installations such as murals are exempt from this requirement.
- [7] Pedestrian walkways, squares, or plazas shall provide continuous pedestrian flow throughout the site and shall provide protected access through a designated crosswalk or walkway between building entrances and all parking areas.
- [8] Pedestrian walkways, squares, and plazas shall be integrated into the overall landscaping and lighting plans for the site.
- [9] Pedestrian walkways and other surface areas of paving material shall offer a variety of pigments and textures that are in harmony with nearby buildings and other paved surfaces and are safe for pedestrian traffic, including the handicapped. Pervious surfaces shall be used wherever practicable to minimize the need for stormwater infrastructure.

(g) Loading & Refuse Collection Areas

- [1] All loading and refuse collection areas shall be screened from public views from primary driveways and pedestrian walkways, squares, or plazas and shall not be located along the front façade of any building or within any parking area. Loading and refuse collection areas shall be internal to a structure to the extent possible.

(h) Signage

- [1] All signs shall be carefully integrated with other site design elements. Signs shall be designed so that they are visible and informative at the pedestrian scale. Signs shall not be mounted above the eave line of any structure or be placed in or attached to any window. Signs must comply with the provisions in Article XII of the Zoning Code.

(i) Lighting

- [1] A site lighting plan shall be provided in conformance with Article XIII of the Zoning Code. Pedestrian-scale lighting fixtures shall be provided in parking areas and along pedestrian walkways and in squares or plazas.

(i) Storage of Merchandise

- [1] Any areas intended for storage or display of merchandise shall be identified on the site plan and shall be approved by the Town Board as part of the Special Permit process.
- [2] Vending machines, ice machines, newspaper boxes, or similar equipment may not be located outside of any building.

(2) Building Design

(a) Building Size

- [1] Large single-use buildings are to be avoided. Where a large tenant is considered, the same building shall include several smaller tenants with separate exterior access to balance the scale of the larger tenant and to facilitate improved building design. No single building shall have a building footprint exceeding 80,000 square feet.

(b) Building Height

- [1] Buildings may be one (1) or two (2) stories to a maximum height of 35 feet. Vertical elements such as clocktowers, cupolas, or other architectural embellishments may extend the total height of the building but shall be no greater than 50 feet in height.

(c) Building Style

- [1] Buildings shall be designed to be consistent with the Special Route 22 Area Master Plan, and in all cases shall be of high-quality design and materials.

(d) Building Facades & Materials

- [1] Building facades shall present a varied appearance at street level and be designed to give individual identity to each building and/or use as well as to help achieve the planned pedestrian scale using features such as:
- The height of cornices, lintels and sill levels, articulated floor levels and other horizontal building features.
  - The spacing and proportion of columns, piers and other elements of the basic structural grid.
  - The spacing and proportion of window and door openings, bays or other aspects of building fenestration.
  - Colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.
- [2] Blank wall exposures shall be limited. No ground-level façade shall have blank (without doors or windows) walls longer than 50 feet along any pedestrian walkway, square, or plaza. Public art installations such as murals are exempt from this requirement.
- [3] The design of building facades shall reflect the scale of existing or planned building development through modulation of vertical and horizontal elements by features such as:

- Variation in roof heights.
  - Changes in the predominant wall plane and/or in facade elements such as window openings and balconies.
  - Use of horizontal projections or recesses in the building facade such as bay windows, cornices, balustrades, etc.
  - Use of pitched roofs and other roof elements such as cross gables, dormer windows, turrets, and clocktowers to provide visual interest, reduce the scale of continuous roofs and break the line where the building meets the sky.
- [4] Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their front facade.
- [5] Building facades shall be architecturally articulated horizontally so that there are breaks in the façade plane where building entrances, windows, or landscaped areas may be located.
- [6] Building facades shall be architecturally articulated vertically to define a pedestrian scale along any pedestrian walkway, square, or plaza. Arcades, awnings, roof- or eave-lines, or second-story windows may be used to define the pedestrian scale. (Any awning, roof, or eave that extends above a pedestrian walkway, square, or plaza shall have a minimum clear height (height from sidewalk to the bottom of any awning, roof, of eave) of eight (8) feet six (6) inches and a maximum clear height of ten (10) feet above the sidewalk and shall extend beyond the building face a minimum of five (5) feet).
- [7] All buildings shall have an appropriate rhythm of entrances and windows consistent with the overall size of the building and orientation to any pedestrian walkways, squares, or plazas.
- [8] Exterior cladding shall be consistent with the overall building style and shall include a variety of colors and textures to help articulate the main facades.

(e) Building Roofs

- [1] Fully-enclosed gabled roofs (minimum pitch of 8:12) are preferred to flat roofs with parapets. On larger buildings a variety of roof-lines shall be used to break up the horizontal extent of the building. Where parapets are used, the parapet shall be provided along each façade. Parapet height is limited to ten (10) feet above the flat roof.
- [2] Where flat roofs are required due to building size, roofing materials having a Solar Reflectance Index (SRI) equal to or greater than the values in the table below for a minimum of 75 percent of the roof surface shall be used or a green roof on at least 50 percent of the roof area shall be used.

Roof Type	Slope	SRI
Low-Sloped Roof	≤ 2:12	78
Steep-Sloped Roof	> 2:12	29

(f) Building Materials

- [1] While synthetic materials may be acceptable, natural building materials including, but not limited to, clapboard and shingle siding, brick, stone, glass, or glass block are preferred and encouraged over synthetic materials. Generic, unadorned Concrete Masonry Units (CMUs) shall not be used as a primary exposed building material on any facade. CMUs with any type of variegated surface (e.g., Architectural Block or Split-Faced

CMUs) are permitted but shall not comprise the majority of the surface area of any one facade.

[2] Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their street frontage.

[3] Windows and doors shall be trimmed with wood or stone a minimum of four (4) inches in width.

(g) Mechanical Equipment

[1] All HVAC or similar equipment shall be screened from ground-level views and views from any roads or adjoining properties at a higher elevation.

D. The developer shall provide adequate proof to the Town Board, prior to the issuance of any certificate of occupancy, that the developer has contracted with a private security company for the purpose of patrolling the premises for the safety and security of its customers, employees and businesses invitees and to ensure that the premises do not become a focal point for loitering or vagrancy. Such contract, or replacements thereof, shall remain in full force and effect during the occupancy of any premises developed hereunder. Failure to adequately maintain security services for the premises shall result in the revocation of any certificate of occupancy by the Town of Southeast; and

E. The Town Board may require the inclusion of any of the foregoing conditions in a declaration of restrictive covenants executed in recordable form and to be recorded by the applicant/owner as a condition of any Special Permit approval.

**Section 6. Validity**

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

**Section 7. Effective Date**

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

**RESOLUTION # 74 /2007 COURT CLERK APPOINTMENT**

Introduced By: Councilman Johnson

Seconded By: Councilman Honeck

**WHEREAS**, each Town Justice is empowered to choose one court clerk to serve and fulfill the duties of the Clerk of the Court for said Justice; and

**WHEREAS**, Judge James Borkowski was elected to another term as Southeast Town Justice at the General Election held on November 6, 2007 and the results of said election were certified by the Commissioners of the Putnam County Board of Elections on November 30, 2007; and

**WHEREAS**, by letter received by the Town on December 14, 2007, Judge Borkowski has requested that this Board confirm Phyllis Dunford to fill the position of Clerk of the Town of Southeast Town Court for a term to run coterminous with the term of said Justice commencing January 1, 2008.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that Phyllis Dunford be and she hereby is confirmed as Clerk to Town Justice James Borkowski of the Town Court of the Town of Southeast, her term of office to commence January 1, 2008.

**RESOLVED**, that Clerk of the Town of Southeast be and she hereby is authorized to accept the oath of office of Phyllis Dunford forthwith.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Abstained  
Councilman Honeck – Aye  
Councilman Bonanno – Aye

Councilman Johnson – Aye  
Councilwoman Mitts – Aye

VOTE: carried by a vote of 4 in favor, 0 against; 1 abstained.

**RESOLUTION # 75 /2007 DEPUTY SUPERVISOR-ABOLISHMENT OF OFFICE THEREOF**

Introduced By: Councilwoman Mitts

Seconded By: Councilman Johnson

**WHEREAS**, the position of Deputy Supervisor having been established pursuant to Town Law Section 42 on January 6, 1956 by a resolution on the Town Board duly adopted; and

**WHEREAS**, at the time of the creation of such position, the office of Town Supervisor was considered a “part time” position, thereby making the need for a Deputy Supervisor more apparent, and

**WHEREAS**, the office of Supervisor now being considered a “full time” position in the Town of Southeast, with the appropriate salary and emoluments, it appears that the need for a Deputy supervisor may no longer be as obvious; and

**WHEREAS**, there are appropriate provisions in Town Law to provide for and fill the needs of the office of Supervisor in the event the Supervisor is unavailable, or unable to act on behalf of the Town.

**NOW, THEREFORE, BE IST RESOLVED**, by the Town Board of the Town of Southeast that the position of Deputy Supervisor for the Town of Southeast is hereby abolished, and be it further

**RESOLVED**, this resolution shall take effect immediately.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Nay  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 4 in favor, 1 against, 0 abstained.

**OLD TOWN HALL**

Supervisor Dunford made a motion to refer Old Town Hall to the Historic Sites Committee for a Request For Proposal and recommendation to the Planning Board. Councilwoman Mitts seconded and all in favor.

**CARPENTRY, PAINTING AND PLUMBING**

Supervisor Dunford made a motion to accept the bids for the carpentry, painting and plumbing. Councilwoman Mitts seconded and all in favor.

Griffen Construction

Carpentry - \$54.00 per hour  
Painting - \$24.00 per hour  
Laborers/Miscellaneous - \$24.00 pr hour

Lumar Plumbing

Mechanic - \$90.  
Helper /apprentice - \$40.00

**STORAGE ROOM FOR 1360 ROUTE 22**

Supervisor Dunford made a motion to Hire Franz & Franz to design the Storage Room at 1360 Route 22. Councilman Bonanno seconded and all in favor

**RESOLUTION # 76 /2007 TO ACCEPT DEED FOR PREMISES LOCATED AT 67 ZIMMER ROAD FOR USE AS TOWN RECREATION FACILITY**

Introduced By: Councilman Honeck

Seconded By: Councilwoman Mitts

**WHEREAS**, LAD FAMILY INVESTMENT, LLC is the owner of premises shown as Lot 1 on a certain map entitled, “”Lot Line Adjustment between Lot Nos. 1 & 4 as shown on “Final subdivision Plat Prepared for Terravest Corporate Park, Terra III, Filed Map 1606L Filed 12-13-05” prepared by Terri Bergendorff Collins, L.S., dated October 4, 2007, revised to \_\_\_\_\_, 2007 and recorded in the Putnam County Clerk’s Office on December 19, 2007 as Filed Map 1606M; and

**WHEREAS**, LAD FAMILY INVESTMENT, LLC has offered to donate and convey title by deed to Lot 1 to the Town of Southeast for use as a town recreation facility; and

**WHEREAS**, for the benefit of the Town and its residents, the Town Board has accepted the offer for the donation and desires to accept title to Lot 1 by deed.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town of Southeast that the Supervisor or his designee is hereby authorized to accept title to Lot 1 by deed; to sign any and all documents necessary to acquire title to Lot 1; to purchase a policy of title insurance in an amount customary and usual for such a transaction; and to expend such sums as necessary for the recording of the deed; and be it further

**RESOLVED**, this resolution shall take effect immediately.

**UPON ROLL CALL VOTE:**

Supervisor Dunford – Aye  
Councilman Bonanno – Aye  
Councilwoman Mitts – Aye

Councilman Johnson – Aye  
Councilman Honeck – Aye

VOTE: carried by a vote of 5 in favor, 0 against; 0 abstained.

**DYKEMAN’S CORPORATE PARK**

Supervisor Dunford made a motion to accept the recommendation of the Architectural Review Board and Councilwoman Mitts seconded. All in favor.



**SPECIAL COUNSEL**

Councilman Johnson made a motion to discharge Richard Mulveany as special counsel. Councilwoman Mitts seconded and all in favor.

**NEW BUSINESS**

Route 22 overlay – maximum square foot is 80,000.

Deputy Supervisor Section 42 can establish or remove the position. Town Board can appoint who chairs the meetings.

Town Hall – each year funds are put in the account and this becomes surplus funds for the project. There will be no borrowing for the project.

Landfill- the embankment grade are intact – the debris can be moved.

Ballfield – future field; the fees come out the recreation reserve.

Clerk of the Works – was it a permanent or part-time position.

Supervisor Dunford made a motion to enter into executive session for litigation and Councilman Johnson seconded.

Supervisor Dunford made a motion to close the executive session and the regular meeting. Councilman Johnson seconded; all in favor.

Respectfully submitted,

Ruth Argo Mazzei  
Southeast Town Clerk