

LOCAL LAW 6 -2009

A LOCAL LAW to amend the County Government Law of Nassau County in relation to the powers and authority of the Nassau County Planning Commission and the Nassau County Planning Department

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Legislative Intent. The Legislature hereby finds that the present provisions of the County Charter regarding the powers and authority of the Nassau County Planning Commission and the Nassau County Planning Department have in some respects become outdated, overruled by court decisions and cumbersome. More efficient and expeditious review of subdivision approval by the Nassau County Planning Commission will better serve residents of Nassau County and persons wishing to develop properties in the County. The Legislature also finds that it is necessary and desirable to provide for the selection of alternates who can serve when members are unavailable; to clarify certain provisions of the Charter with respect to filing requirements and subdivision review; to authorize the Nassau County Planning Commission to promulgate regulations relating to its own internal governance procedures as well as operating procedures that may differ as appropriate for the approval of various categories of subdivisions; to conform the provisions governing environmental review to court decisions and state regulations; and to provide for a penalty structure that will distinguish between various categories of offenses and provide for adequate deterrents. It is intended by this legislation to grant to the Nassau County Planning Commission and the Nassau County Planning Department the powers necessary for guiding and accomplishing a coordinated, adjusted, sustainable and harmonious development of the County which will, in accordance with present and future needs, best promote the health, safety and general welfare, as well as efficiency and economy in the progress of development.

§2. Article XVI of the County Government Law of Nassau County, sections 1601, 1602, 1603 and 1604 as amended by Local Law No. 12-2004, section 1605 as amended by Chapter 917 of the Laws of 1956, section 1607 as amended by Local Law No. 23-2002, section 1608 as

amended by Chapter 707 of the Laws of 1949, and section 1610 as amended by Local Law No. 8-1989, is hereby amended to read as follows:

§1601. Department established; planning commission; members; terms; vacancies, alternates, training requirements. a. There are hereby established a County Planning Department and a County Planning Commission. The County Planning Commission shall be comprised of nine voting members, appointed by the County Executive subject to the approval of the Legislature, all of whom shall be residents of the County so appointed that there shall be at least one resident from each of the several towns. It shall also include one non-voting member, appointed by the County Executive subject to the approval of the Legislature, who shall be called the Executive Commissioner and who shall act as the head of the County Planning Department. Among the nine voting members of the County Planning Commission, at least four shall be residents of incorporated villages, at least one shall be an active member of an environmental or conservation organization or hold an undergraduate or graduate degree in a field of study related to the sustainability of the environment or the conservation of natural resources, at least one shall be an active member of an organization advocating the interests of businesses within the County or an active member of a chamber of commerce, and at least one shall be an active member of an organization advocating the interests of the minority residents of the County or a member of a community development agency or a public housing agency or authority.

The terms of office of the voting members of the County Planning Commission appointed to serve terms which commenced prior to January first, nineteen hundred ninety-six shall terminate December thirty-first, nineteen hundred ninety-five. For those members appointed to serve on the County Planning Commission on or after January first, nineteen hundred ninety-six the term of office shall be three years, except for those initially appointed who shall serve staggered terms as follows: three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-six (one year); three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-seven (two years); and three members for terms commencing January first, nineteen hundred ninety-six and expiring December thirty-first, nineteen hundred ninety-eight (three years). When making the appointments, the County Executive shall indicate the length of the term of each member. For the purpose of making the above appointments, any city heretofore or hereafter created from the territory of any town shall be considered to be part of that town. Vacancies shall be filled by appointment of a County resident as described above with respect to which such vacancy has occurred.

b. **Alternate members of the County Planning Commission.** The County Executive may appoint for a term of three years, subject to the approval of the Legislature, no more than two residents of Nassau County to be alternate members of the County Planning Commission, who shall substitute for any member who is absent, unable to serve, physically incapacitated, or prohibited by law or disqualified from participation. The County Planning Commission may establish in its rules of procedure established pursuant to section sixteen hundred two of this article, such additional procedures with respect to alternate members as it deems necessary.

c. **Training requirements.** Each member of the County Planning Commission and each alternate member shall complete at least four hours of training approved by the Executive Commissioner each year, designed to enable such members to more effectively carry out their

duties. Approved training completed by a member in excess of four hours in any one year may be carried over into succeeding years in order to meet the requirements of this subdivision. Providers of such training shall include, but not be limited to, a municipal agency or department, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, accredited continuing legal education provider, or a college or university. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training. A member or alternate member shall not be eligible for reappointment unless such member has completed training in accordance with the requirements of this section. A member's failure to comply with the requirements set forth herein shall not void or invalidate any action taken by the County Planning Commission.

§ 1602. **Organization; rules of procedure; employees.** a. The County Planning Commission shall select from its own voting members a chairperson and vice-chairperson, and shall adopt its own rules of procedure, which may, include but shall not be not limited to authorization to select such additional vice-chairpersons or other officers as the County Planning Commission determines is necessary and appropriate.

b. The Executive Commissioner shall have power, within the limits of the appropriation made by the Legislature, to appoint and employ deputies, as he or she deems necessary and appropriate, who may act generally for and in place of the Executive_Commissioner; and other necessary clerical assistance, and to employ or contract with such city planners, engineers, architects, and other assistants as may be necessary in the performance of the duties of the County Planning Department and the County Planning Commission.

§ 1603. **Duties of the department.** It shall be the duty of the Department of Planning in coordination with the County Planning Commission to:

a. Advise and report to the County Executive, the Legislature and other departments of the County government with respect to the physical development of the County, to the end that governmental activities in and for the County that are within the jurisdiction of the County government will contribute toward achieving and maintaining a character of development in the County that will be physically harmonious, economically sound, environmentally sustainable and socially beneficial.

b. Perform such administrative duties as are set forth in this article and such others as may be assigned to the Department from time to time by the County Executive or the Legislature.

c. Advise and consult with the planning boards and other agencies and officials of the cities, incorporated villages, and towns in the County with respect to such of their activities as relate directly to the physical development of the territories under their respective jurisdictions and invite suggestions from state and federal officials, with the same objective as that set forth in paragraph a of this section.

d. To promote commerce and industry within the County by undertaking the following powers and duties:

1. To confer with and advise the County Executive and the County Legislature on all matters concerning the commercial and industrial development of the County.
2. To advertise the commercial and industrial advantages and opportunities of the County within the means provided by any appropriations made therefore by the County Legislature.
3. To collect data and information as to the type of commerce and industries best suited to the County.
4. To develop, compile and coordinate information regarding available areas suitable for commercial and industrial development.
5. To study and recommend means of encouraging the orderly development of areas suitable for commercial and industrial development and to promote suitable improvement of such areas of the County.
6. To aid the County Executive, the County Legislature and County Planning Commission in the attraction of new commercial business and industries and in the encouragement of expansion by existing industries and business.
7. To cooperate with all community groups which are dedicated to orderly commercial, industrial and economic expansion of the County, and to furnish them such aid and advice as is deemed appropriate.
8. To cooperate with all commercial establishments, industries and businesses in the County in the solution of any community problems which they might have, and to encourage the managements of such concerns to have a healthy and constructive interest in the County's welfare.
9. To periodically survey the County to determine whether the County furnishes such services and facilities as are conducive to industrial and economic expansion.
10. To issue publications and reports designed to promote the County's commercial and industrial growth and development.
11. To recommend to the County Executive and the County Legislature policies and procedures in carrying out the purpose of this section.
12. To submit an annual report to the County Executive and the County Legislature on commercial and industrial development.
13. To engage in such activities as will promote the economic well being of the County, including but not limited to promoting environmental sustainability and efficient transportation systems throughout the County.

§ 1604. **Method of operation.** In the performance of its duties as set forth in section sixteen hundred three the Department of Planning in coordination with the County Planning Commission, shall:

a. Study the characteristics of and trends in population, economic activity, land use, and related aspects of physical development in the County, taking into account conditions affecting such characteristics and trends both within the County and having a bearing on the County as a part of the intercommunity composite of the New York metropolitan area. In furtherance of the provisions of this paragraph, the County Planning Commission shall, no later than January first, nineteen hundred ninety-nine, prepare and adopt a comprehensive master plan for the development of the entire area of the County which master plan shall include studies and recommendations regarding highways and transportation, economic development, parks, public water supply, air quality, solid waste disposal, historic preservation, wastewater treatment, open space preservation, environmental conservation and sustainability, future land use and availability of housing. Such master plan shall be revised and updated whenever and as often as the County Planning Commission may deem it in the public interest, but at least once every five years after its initial adoption. Nothing herein shall be construed as limiting or diminishing the powers and authority of the several towns, cities and villages within the County to exercise, amend and enforce their own zoning and land use codes and local laws and to publish and adopt a comprehensive plan limited to such town, city or village.

b. Make such studies of and recommendations and plans relating to such phases of the physical development of the County as may be directed from time to time by the County Executive or the County Legislature.

c. Provide, within its ability to do so within the funds appropriated for its work, such information relating to the physical development of the County as may be requested by other departments or officials of the County government.

d. Maintain information as to the activities of and the regulations in effect in the cities, incorporated villages, and towns in the County that relate directly to the physical development of the respective territories thereof and, within its ability to do so within the funds appropriated for its work, advise the planning boards and the other officials of such cities, incorporated villages, and towns, either on their request or on the initiative of the Department of Planning with respect to such activities and regulations therein.

§ 1605. Official map unincorporated territory.

a. The word "street" when used in this section shall mean and include all types of thoroughfares for public travel, however the same may be designated.

b. The Legislature may by resolution establish an official map of all or any part of the unincorporated territory of any town in the County, which map shall show (1) all streets, including rights of way therefore laid out or established for proposed streets or for the widening or realignment of existing streets, and (2) rights of way for storm water drainage or for sewerage, which have theretofore been laid out, adopted, or established, and such map shall be final and conclusive with respect to the locations and widths thereof. Said board thereafter, whenever and as often as it may deem it to be in the public interest, may by adding streets thereto, including proposed streets, the widening, realigning or altering of existing streets and removing closed or abandoned streets therefrom or by (2) adding thereto rights of way for storm water drainage or

for sewerage, including proposed rights of way therefore, or moving such rights of way therefrom. The official map established by the Legislature and any amendments thereto shall become effective upon the filing of a certified copy of the resolution of the Legislature establishing said official map or any amendments thereto in the office of the County Planning Commission.

c. The layout, widening, realigning or closing of streets by any agency of the County government or by any agency of a town government or by any official or agency of the State of New York or a public authority created pursuant to the provisions of the public authorities law of the state having jurisdiction, shall be deemed to be an amendment of the official map covering unincorporated territory within which such streets are located and such amendment shall take effect upon the date of the filing in the office of the County Planning Commission the map of the layout, widening, realigning or closing of streets and of the ordinance, resolution or order of the agency of the County government or the agency or a town government laying out, widening, realigning or closing the street or streets, or the certificate of such official or agency of the State of New York or such public authority showing such laying out, widening, realigning or closing. The streets, rights of way for storm water drainage or for sewerage shown on the plat of any subdivision approved as provided in this article shall, upon the filing of such plat in the office of the County Clerk, become a part of any official map covering any unincorporated territory within which such streets and rights of way are located.

d. No building or other structure or part thereof shall be erected within or be moved to within the bed of any street or any right of way for storm water drainage or for sewerage shown in any official map established under the provisions of this section nor within such distance from the lines of any such streets as may be specified by or pursuant to the regulations applying to the dimensions of yards or otherwise to the location of buildings, as the same are set forth in any zoning ordinance applying to any territory covered by such official map. If such limitation as to the location of buildings and other structures in relation to such streets or rights of way would have the effect of depriving the owner of any land lying within the lines of any such street or right of way shown on any official map established under the provision of this section of the reasonable use of such land or the yield of a fair-return on the value thereof, the County Planning Commission upon application by such owner in such form as the commission shall require, shall have the power, acting by a vote of a majority of its members and on a finding setting forth the aforesaid effect and the reasons therefor, to consent to the issuance of a permit for a building or structure or part thereof encroaching on any such mapped street or right of way to an extent that will as little as practicable increase the cost of opening such street or acquiring such right of way. The County Planning Commission may impose such reasonable conditions and requirements in connection with such action as will inure the benefit of the public. Upon such consent, such building or other structure may be located in accordance with the terms thereof, subject to all other applicable provisions of law. Before taking any action authorized by this section, the County Planning Commission shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. The County Planning Commission shall hold a hearing before taking any action pursuant to this section, notice of such hearing to be published in the official newspapers at least ten days prior to the date of said hearing.

e. The powers and duties of the Legislature and the County Planning Commission with respect to official maps covering land in unincorporated territory in Nassau County, as specified in this section, shall supersede the powers of town boards and of planning boards and boards of

appeals of towns with respect thereto as set forth in the town law.

§ 1606. **Zoning powers of towns, cities and villages continued.** Except as otherwise provided in sections sixteen hundred seven and eight of this article, the laws of this article, the laws of this state as they now are or may hereafter be conferring on towns, villages and cities and the offices, boards and commissions thereof, powers with regard to the regulation and restriction of the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes shall remain in force in such towns, villages and cities.

§ 1607. **Extension of zoning powers of town.** The powers now or hereafter conferred by law on any town board or commission thereof with regard to the matters set forth in the preceding section shall also be exclusively exercised thereby within all portions of such town unincorporated as a village as of January 1, 1963, irrespective of the inclusion thereof in a village erected or incorporated after such date. Such powers may also be exercised by any such town or the appropriate board or commission thereof by a two-thirds vote of such board or commission within all portions of the town within three hundred feet of any public navigable water-way, for the purpose of adopting a higher or more restrictive classification therefor.

§ 1608. **Commission review of planning and zoning actions.** No action governed by section two hundred thirty-nine-m of the General Municipal Law shall be approved by any city, town or village within the County until such proposed action has been referred to the County Planning Commission for its review and recommendation as provided by such section, subject to any exception provided therein. The County Planning Commission may adopt regulations governing its review of such actions. In addition, no zoning ordinance or amendment thereto passed, after the date on which this act becomes effective in the County, by any village partly or wholly in any town relating to any portion of such village within such town and within three hundred feet of the boundary of such village, shall take effect in respect to such portion of such village until the ordinance or amendment has been submitted to the town board of the town in which such portion of such village is situated and been approved thereby. The ordinance or amendment shall be deemed to have been approved unless within thirty days after the same has been filed with the town board a resolution disapproving it is adopted by a two-thirds vote of such board, after a public hearing thereon. At least seven days prior written notice of such hearing shall be given to the clerk of the village affected. Similar notice shall be given in writing to any state park commission having jurisdiction of any park or parkway situated within three hundred feet of the land affected by the proposed ordinance or amendment.

§ 1609. **Filing of ordinances and maps.** At the date on which this act becomes effective in the County, certified copies of all master plans, zoning ordinances or portions thereof in effect therein, with all accompanying maps and charts, shall be filed with the County Clerk, and all amendments to such ordinances, plans, maps or charts thereafter adopted shall likewise be filed with the County Clerk. Electronic or paper copies of all such filings shall be provided to the County Planning Commission.

§ 1610. **Approval of maps; penalty for use of unapproved map.**

a. **Definitions.** For the purposes of this section, the following words, phrases, terms and their derivations shall have the meaning given herein:

1. “Condominium” means the form of real property ownership as set forth in New York Real Property Law.
2. “Cooperative” means a building owned under the form of ownership as set forth in the New York Cooperative Corporations Law.
3. “Lot” means a site, block, unit, parcel, plot or tract of land.
4. “Major subdivision” means a subdivision that is not a minor subdivision as defined in this subsection.
5. “Map” or “plat” shall mean a drawing, prepared in a manner prescribed by the regulations of the County Planning Commission, showing a proposed subdivision and containing all information required by the County Planning Commission for its approval.

(A) “Final map” means a map presented to the County Planning Commission for final approval and which, if approved, shall qualify the map for recording in by the County Clerk or on the register of the municipality in which such map is registered.

(B) "Final map approval" means the signing of a map in final form by a duly authorized officer of the County Planning Commission pursuant to a resolution granting final approval to the map or after conditions specified in a resolution granting conditional approval of the map are completed. Only approval as defined in this provision qualifies the map for recording in the office of the County Clerk.

(C) “Preliminary map” means a drawing prepared in a manner prescribed by the regulations of the County Planning Commission, including, but not limited to, the layout, building units, parking areas, common open space and recreational facilities of a proposed subdivision, , road and lot layout and dimensions, key plan, topography and drainage, planting buffers, all existing and proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as the regulations may require.

(D) "Preliminary map approval" means the approval of the layout of a proposed subdivision as set forth in a preliminary map but subject to the approval of the map in final form in accordance with the provisions of this section.

6. “Minor subdivision” means any proposed subdivision resulting in fewer than five lots provided, however, that the Planning Department may determine to be a major subdivision any proposed subdivision that: (a) will result in or necessitate a new or modified public improvement; (b) presents material drainage or slope changes or other environmental considerations; (c) is on or contiguous to a special groundwater protection area, wetland, or park ; or (d) is part of or contiguous to a subdivision that was approved by the County

Planning Commission not more than three years prior to receipt by the County Planning Department of the application for such proposed subdivision.

7. "Owner" means a person having legal title to or a sufficient proprietary interest to legally effectuate transfer of the property sought to be subdivided.

8. "Person" shall mean an individual, partnership, firm, association, trust, company, corporation or other business entity.

9. "Planning authority" shall mean a municipal planning board or commission authorized by such municipality to consider and approve preliminary and final maps for the subdivision of real property.

10. "Public improvement" means a drainage ditch, street, parkway, sanitary sewer, water main, electric facility, sidewalk, walkway, tree, lawn, off-street parking area, lot improvement, stormwater recharge basin, or any other facility for which a municipality may assume the responsibility for maintenance and operation, or which may constitute an improvement for which municipal responsibility is subsequently established by appropriate municipal authority.

11. "Sale" means any transfer of fee ownership, or any transfer of use rights conferring exclusive possession, whether by metes and bounds, deed, contract, plat, map or other written instrument.

12. "Street" shall mean a public or private roadway, unless otherwise specified herein. For the purpose of regulating subdivisions, the County Planning Commission may adopt regulations distinguishing different types of streets.

13. "Subdivide" or "subdivision" shall mean the partition or division of any lot into two or more lots, or any combination thereof. The term "subdivision" shall include (a) any alteration of lot lines or dimensions of any lots or sites shown on a map previously approved and filed in the office of the County Clerk or register of the County in which such property is located; and (b) any description of lot lines, including but not limited to tax lot lines, or dimensions on a deed that results in or constitutes a partition or division of any lot, including but not limited to a tax lot shown on a map and filed in the office of the County Clerk or register of the County in which such property is located.

14. "Subdivider" means an owner, or the authorized agent or employee of an owner, who commences proceedings to effectuate a subdivision of real property for his or her own behalf or on behalf of the owner or any group or association of all the owners of such property.

15. "Unit" means a space, regardless of whether such space is used for residential, commercial, mixed or other use, or whether title is held in fee simple, a condominium, cooperative, or any mixed form of ownership.

16. "Utilities" means water, sewer, lighting, fire alarms, electric power, television, telecommunications, gas, as well as mains, conduits, piping, or other facilities related thereto.

b. Authority to review and approve subdivision maps. In order to further the health, safety and general welfare of the residents of Nassau County and to promote the coordinated,

sustainable and efficient development of the County, the County Planning Commission shall have, but not be limited to, the powers set forth below.

1. Every person, except for cemetery corporations within the County of Nassau, who as owner or agent of the owner of real property situated in the County of Nassau, subdivides such property, regardless of whether any such subdivision contains streets or is subdivided by lot, or by metes and bounds, shall obtain approval as required by this section and shall file or cause to be filed in the Office of the Clerk of Nassau County a map or maps of such real property. No map of a subdivision of land partly or wholly within the County shall be filed until it shall have been approved by each planning commission and/or planning authority having jurisdiction over that area and the approval thereof entered on the plat by the chairperson, director or such agent as may be authorized by the planning commission and/or planning authority thereof. For the purposes of this section, the County Planning Commission shall be a planning authority with jurisdiction over all portions of the County outside of cities and villages or within a city or village and within three hundred feet of the boundary of such cities and villages, and the planning authority or commission of any city or village or, if there be no planning board or commission, the board of zoning appeals of such city or village shall be the planning authority of such city or village, with jurisdiction over all portions of such city or village and over all territory outside of such city or village and within three hundred feet of the boundaries of such city or village.

2 Notwithstanding section 334-a of the New York Real Property Law, no map proposed for the subdivision of real property shall be exempt from the requirements set forth in paragraph one of this subdivision solely because a map for the subdivision of such real property had been filed prior to January twelfth, nineteen hundred forty-five.

3. The requirements of this subdivision are subject to the following exception pertaining to the conversion to condominium, cooperative or mixed form of ownership: where there is a conversion of an existing structure into units, which structure: (1) was in existence and legally occupied prior to August fifth, nineteen hundred eighty-seven; and (2) where title to said units is to be held in a condominium, cooperative or mixed form of ownership; and (3) the use thereof is in compliance with this section and with the zoning and planning regulations of the city, town or village, as the case may be, in which the structure is located.

c. Minor subdivision approval. Where a subdivider proposes a minor subdivision and such subdivision conforms, with or without approved variances, to the applicable planning and zoning regulations or ordinances of the city, town or village, as the case may be, the subdivider may apply in writing to the County Planning Commission to request approval of such subdivision pursuant to this provision. The County Planning Commission shall, by regulation, adopt streamlined procedures and application filing requirements for minor subdivision applications. Not later than sixty-two days after the County Planning Commission receives an application for subdivision approval that the Planning Department has determined proposes a minor subdivision, and deems such application complete, the County Planning Commission shall consider such minor subdivision at a public hearing. The County Planning Commission shall make a determination approving, approving with conditions or denying any minor subdivision requests within sixty-two days after the application is deemed complete, unless such a period shall have been extended by consent of the applicant or the County Planning Commission has deemed an extension of time to be in the best interest of the public. Approval by the County Planning

Commission of a minor subdivision shall remain in effect for no more than ninety days after the date it issues unless, upon application and for good cause shown, the County Planning Commission in its discretion extends the effectiveness of such approval to a date not later than one year from the date such approval issues. In lieu of a new subdivision application, a property owner or authorized agent may apply for an extension of time for filing the survey and deeds of an approved minor subdivision if such extension request is submitted within one year from the date of initial approval.

d. Major subdivision preliminary map approval. Where a subdivider proposes a major subdivision, the subdivider shall submit a preliminary map to the County Planning Commission. Such a preliminary map shall be clearly marked "preliminary map" and shall conform to the all requirements for preliminary maps as provided in this section and the regulations of the County Planning Commission. Not later than sixty-two days after the County Planning Commission receives an application for preliminary map approval that it deems complete, the County Planning Commission shall consider such preliminary map at a public hearing. Not later than sixty-two days after the date of such hearing, the Commission shall approve, conditionally approve or disapprove such preliminary map and shall state on the record the reasons for its determination. Not later than fourteen days after the Commission approves a preliminary map, it shall file certification of such approval in the office of the Commission and mail such certification to the subdivider. The time by which the Commission must take action on a preliminary map as provided herein may be extended by mutual consent of the Commission and the subdivider or if the Commission deems such extension of time to be in the public interest.

e. Major subdivision final map approval. 1. Not later than twelve months after the County Planning Commission approves a subdivider's preliminary map, or longer upon the Commission's consent, such subdivider shall submit a final map with a complete application for final approval as provided by this subdivision and regulations adopted pursuant to this section. Such application shall include all municipal or governmental agency approvals as may by law or regulation be required, including but not limited to the approvals set forth in Real Property Law Section 334-a, subdivisions two through fourteen. The applicant shall also provide an estimate of the cost of public improvements and utilities; the consent of the mortgagee(s) to the filing of the map; a certificate of title of an approved title company, in a form satisfactory to the County Planning Commission, certifying record title in the name of the applicant; prints of the final map as may be required; and any required fee. Such application shall be filed with the County Planning Commission not later than twenty-one days before a regular meeting of the County Planning Commission, which time period the County Planning Commission may reduce for good cause shown, but in no event shall the public hearing on the final map be on less than seven days notice. The County Planning Commission may revoke its approval of a subdivider's preliminary map if his or her application for final map approval is not timely submitted. Not later than sixty-two days after a subdivider submits his or her complete application for final map approval, the County Planning Commission shall consider such final map at a public hearing. The County Planning Commission shall by resolution approve, conditionally approve, or disapprove a final map not later than sixty-two days after the date of public hearing to consider such final map. The time by which the County Planning Commission must take action on a final map as provided herein may be extended by mutual consent of the County Planning Commission and the subdivider, or the County Planning Commission has deemed an extension of time to be in the best interest of the public.

2. Not later than forty-five days after a final map is approved, the applicant shall submit to the County Planning Commission, as provided herein and by regulation of the County Planning Commission, a surety company bond and/or cash security in an amount determined by the County Planning Commission and in accordance with a form supplied by the County Planning Commission to ensure timely and satisfactory completion of any improvements upon which the County Planning Commission conditioned its final approval of a map. There shall also be included in determining the amount of such bond and/or cash security the reasonable cost of inspection of any such improvements by the County Planning Commission, the estimated cost for employing private security to guard any storm water drainage or storage basins required to be installed by the County Planning Commission, the cost of liability insurance, and the estimated cost of installation of necessary utilities. The County Planning Commission may, in its sole discretion, accept assurance in writing from each utility supplier whose facilities are proposed to be installed. When such a written assurance is acceptable, it shall be addressed to the County Planning Commission and state that such utility supplier will make the installations necessary not later than a date satisfactory to the County Planning Commission.

3. Upon timely completion of all requirements constituting the conditions for its final approval, the final map shall be certified in writing as approved by the Chairperson, Executive Commissioner or other duly authorized agent of the County Planning Commission. A subdivider shall file the approved map, together with one duplicate tracing, with the County Clerk no later than ninety days following the date of certification of the resolution granting approval of such map; provided, however, that the County Planning Commission may in its sole discretion extend the time period by which an approved final map must be so filed, but such period shall not extend more than one year from the date of initial approval. In lieu of a new subdivision map application, a property owner or authorized agent may apply for an extension of time for filing the map of an approved major subdivision if such extension request is submitted within one year from the date of initial map approval. Duplicate tracings of the map as prescribed by regulation shall be presented at the office of the County Planning Commission.

4. The filing of an approved map shall constitute an irrevocable offer of dedication by the owner of the land to the municipality having jurisdiction of public streets, public roads or public highways shown on said map; provided, however, that such filing of an approved map shall not be deemed to constitute or effect such municipality's agreement to dedicate any street or other open space shown upon such map.

f. Subdivider duty to provide notice of public hearings. 1. A subdivider seeking approval of a proposed subdivision shall provide to all property owners of record as of the most recent county assessment roll whose property is within two hundred feet of the perimeter of the subject property notice of the time, date and location of any public hearing at which the Planning Commission will consider his or her application for such approval. Such notice (a) shall be provided no later than thirteen days before the date of such public hearing; except for public hearings on final map approvals if the County Planning Commission permits such a reduction of time, but in no event later than seven days notice, and (b) shall be sent by certified mail, return receipt requested, or by overnight mail with proof of delivery, on forms supplied by the Planning Department. All hearings for major subdivision applications shall be advertised at least once in a newspaper of general circulation in the County at least thirteen days before the date of such hearing, or as otherwise directed by the Commission. Not later than five days before the date of such public hearing, such subdivider shall file with the Planning Department an affidavit,

executed by the applicant on a form supplied by the Planning Department, stating the name and address of each person to whom notice was sent and the date when such notice was sent. In addition to the foregoing notice requirement, the major subdivision applicant may be required to post copies of such notice in such places and in such manners as may be prescribed by the County Planning Commission and may further be required to advertise in such manner as the County Planning Commission deems most appropriate to provide for full public consideration of such proposed subdivision. Additional notice shall not be required when a hearing has been adjourned or continued, unless otherwise required by the County Planning Commission.

g. Authority to adopt regulations. 1. The County Planning Commission is hereby authorized to establish and amend, by resolution, regulations for the subdivision of land consistent with the provisions of this article. Before adopting such regulations the County Planning Commission shall hold a public hearing on the proposed regulations and any amendments thereto not sooner than fourteen days after the date notice of the time and place of such hearing is given by publication in the official newspapers of the County. Such regulations shall be submitted to the Nassau County Legislature for its approval by ordinance. In the interest of the public's health, safety and general welfare, the Planning Commission may vary such requirements of the regulations established as provided in this section upon a showing of the special circumstances and conditions relating to a particular plat.

2. Such regulations may provide, without limitation, for:

- A. categories of applications subject or not subject to hearings;
- B. requirements that the land shown on a map be of such a character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace;
- C. the proper arrangement and width of streets in relation to other existing or planned streets and to any master plan adopted by a city, town or village, for adequate convenience and suitable open spaces for traffic, utilities, access of fire fighting apparatus, recreation, light, and air, and for the avoidance of congestion of population, including minimum width and area of lots;
- D. consideration of the character of the surrounding area and population density;
- E. the terms and conditions of the posting of bonds, inspection requirements, liability insurance requirements, and
- F. any other requirements governing the subdivision of land in the County appropriate and consistent with the provisions of this section.

3. Such regulations may condition the approval of all subdivision applications on requirements regarding but not limited to: (i) the extent to which streets, roads, highways and other public places shown upon the map shall be graded and improved; (ii) for the installation of sidewalks and curbs upon existing highways, roads or streets which intersect or bound the map; (iii) the extent to which water, sewer and other utility mains, piping, fire alarms, or other facilities, sidewalks, curbs, gutters, street signs and lighting standards shall be installed in

accordance with standards, specifications and procedure of County and town highway officials; (iv) where lots or plots are to back on highways, roads or streets existing or shown on the plat; (v) the extent and nature of planting or screening which shall be installed; (vi) that suitable monuments be placed at such block corners and other points as may be required by the County Planning Commission and (vii) the terms and conditions under which a subdivider shall submit a bond and/or cash to secure the completion of the subdivision in accordance with the conditions of approval and all applicable law.

h. Bonding Requirements; Public Improvements. No public improvements shall be commenced or utilities installed pending final approval of the plat by the County Planning Commission and/or the planning authority or authorities having jurisdiction thereof and filing in the Office of the County Clerk. Prior to the final approval of the plat the Planning Commission may accept a bond with surety and/or cash security by certified check to secure to the County, city or village, as the case may be the actual construction and installation of such improvements or utilities and the reasonable cost of inspection on behalf of the County Planning Commission during such construction, at a time and according to specifications fixed by the County Planning Commission and in accordance with the regulations. If any public utility company whose facilities are proposed to be installed shall file with the Commission satisfactory assurance that such utility company will make the installations necessary for the furnishing of its services within the time satisfactory to the Planning Commission, the Commission in its discretion may waive the bond as to the utility to be furnished. The term of such bond may be extended by the Planning Commission with the consent of the parties thereto after a public hearing held upon notice as provided in subdivision e of section sixteen hundred ten of this article with respect to the final approval of plats for the subdivision of land. If the Planning Commission shall decide at any time during the term of the said bond and/or cash security that the extent of development which has taken place in the subdivision is not sufficient to warrant all the improvements covered by such bond, and/or cash security or that required improvements have been installed as provided in this section is in sufficient amount to warrant reduction in the face amount of said bond, the Planning Commission after public hearing upon the same notice as required for the consideration of a plat may modify its requirements for any or all such improvements and the face amount of such bond and/or such cash security and/or surety may thereupon be either reduced or increased as in its judgment of the special circumstances and conditions of the particular plat may be required in the interest of the public health, safety and general welfare by an appropriate amount so that the new face amount will cover the cost in full of the amended list of improvements required by the County Planning Commission and any security deposited with the bond may be reduced, increased or modified proportionately. Upon the completion of the improvements covered by said bond and/or cash security to the satisfaction of the County Planning Commission and, should the municipality having jurisdiction determine that it intends to accept dedication of such improvements, upon the acceptance by the municipality thereof, the County Planning Commission may, after a public hearing held upon notice as provided in this section with respect to the reduction of the face amount of such bonds, recommend the release of said bond and/or cash security and/or surety to the Legislature. In the event that any required improvements have not been installed as provided in this section within the term of such performance bond and/or cash security, the County Executive upon recommendation of the Commission may thereupon declare that said performance bond and/or cash security to be in default. The County, city or village, as the case may be, is hereby granted the power to enforce such bond, and/or cash security by all appropriate legal and equitable remedies. Upon the receipt

of any sums of money collected upon said bond and/or cash security the County shall install such improvements as were covered thereby and are commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such monies so received. In the event that any improvements have been commenced or are being installed in violation of this section or the provisions of the resolution of the County Planning Commission approving the plat and/or not in accordance with the specifications of the County Planning Commission's regulations, the County, city or village, as the case may be, in addition to other remedies, may institute any appropriate action or proceeding to restrain, correct and/or abate such violation. Where under this section it is required that a plat shall be approved by both the County Planning Commission and the planning authority of any city or village or villages each such planning authority may require a bond and/or cash security covering the improvements as to the land within the jurisdiction of such authority under the law governing such planning authority, or the County Planning Commission and such planning authority may agree to accept one bond and/or cash security as to their respective interests therein. Except as to the requirement for joint approval of a plat, this section shall not be deemed to supersede or change any provision of law relating to the approval of plats of subdivisions in any city or village as to the land within such city or village.

i. Civil Penalties. 1. Except as provided in subdivision three of this subdivision (i – Civil Penalties), an owner or agent of an owner of any real property, structure or unit who advertises for sale or who transfers, sells, agrees to sell or negotiates to sell or offers for sale any lot (inclusive of shares in a cooperative corporation or interest in land shown upon a map by reference to or exhibition of, or by other use of a map of a subdivision) before such map has been approved by the Nassau County Planning Commission and/or each planning authority as provided in this section and filed in the Office of the Nassau County Clerk shall be subject to a penalty of not less than five hundred dollars nor more than five thousand dollars, payable to the County, for each and every lot in such proposed subdivision. The County and/or each planning authority may apply to the court for enforcement of such penalties and for injunctive action and may recover damages by a civil action.

2. An owner or agent of an owner of any real property structure or unit located within a subdivision who commences construction of any improvements without the approval of the County Planning Commission and/or each planning authority as provided in this section and filed in the Office of the Nassau County Clerk, shall be subject to a penalty of not less than one thousand dollars nor more than ten thousand dollars, payable to the County, for each and every structure or improvement proposed in such subdivision. Reference to a map filed without authorization in an instrument or document of real property sale or transfer shall not exempt a party to such transaction from any penalty or remedy herein provided. The County and/or each planning authority may apply to the court for enforcement of such penalties and for injunctive action and may recover damages by a civil action.

3. Notwithstanding the foregoing provisions of this subdivision, an owner or agent of an owner of any land, structure or unit that is the subject of a plan of cooperative, condominium development or homeowners' association accepted for filing by the Office of the Attorney General of the State of New York and approved for purposes of offering and/or advertising to the public, may offer or advertise such land, structure or unit for sale, provided that:

(A) an application for final subdivision approval has been filed with the County Planning

Commission and/or planning authority having jurisdiction thereof; and

(B) any payments received by an owner or agent of an owner of such land, structure or unit shall be deposited in an escrow account in accordance with the terms and provisions of such plan as accepted by the Attorney General of the State of New York, together with such other safeguards as the County Planning Commission and/or planning authority having jurisdiction may impose in the interests of protecting the general welfare; and

(C) all contracts or subscription agreements by which such land, structure or units are offered or advertised shall contain a notice, printed in boldface type and plain language, that said contracts and/or subscription agreements are expressly subject to final approval of the subdivision by the County Planning Commission and/or planning authority having jurisdiction thereof and that such approval may alter the proposed subdivision.

j. County Clerk and Department of Assessment to confirm authorization to file map.

1. The County Clerk shall not accept for filing a map for the subdivision of real property that does not bear certification that the County Planning Commission and/or all planning authorities having jurisdiction over such real property have approved such map for filing.

2. The County Clerk shall not accept a deed for recording that describes real property constituting less than a single lot.

3. The Department of Assessment shall not create a tax lot that describes real property constituting less than a single lot without the approval of the County Planning Commission and/or the planning authorities having jurisdiction over such real property.

4. The County Clerk shall notify the County Planning Commission in writing of the filing of any map approved by such County Planning Commission identifying such map by its title, date of filing and official file number.

k. Review of Department and Commission Determinations. No decision by the Planning Department regarding an application for subdivision approval shall be deemed a final determination until reviewed and acted upon by the County Planning Commission. Any person aggrieved by a final determination of the County Planning Commission may apply for review pursuant to article seventy-eight of the Civil Practice Law and Rules.

§1611. Environmental quality review.

1. a. All environmental review conducted by the Planning Commission or any other department or agency of the County shall comply with article eight of the New York Environmental Conservation Law and the regulations promulgated pursuant thereto in title six of the New York Codes, Rules and Regulations (“NYCRR”). The Planning Commission may, consistent with such law and codes, promulgate regulations to effectuate the provisions of this section.

b. The cost of environmental review services performed by the County may be charged to an applicant. Pursuant to section 617.13 of title six of the NYCRR, such costs may include services performed by County staff as well as by outside consultants where appropriate.

2. Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this section shall have the same meaning as those defined in section 8-0105 of the Environmental Conservation Law and part six hundred seventeen of title six of NYCRR.

a. **Environmental review for actions by the Legislature and County agencies and departments.** The County Planning Commission may, at the request of the Legislature or any department head, or agency head of the County, serve as adviser to the Legislature or such department, or agency with the responsibility for implementing the provisions of this section. In response to such a request, the County Planning Commission shall submit recommendations to the Legislature or the requesting department or agency for consideration in connection with any decision whether to carry out or approve an action pursuant to the Environmental Conservation Law and the NYCRR.

b. Environmental review of applications before the County Planning Commission.

1. For the purpose of assisting in the determination by the County Planning Commission of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the County Planning Commission, in a form acceptable to the County Planning Commission containing the information required by title six of the NYCRR and such additional information as such Commission may require.

2. If the Commission determines that a proposed action may have a significant effect on the environment, the Commission shall proceed pursuant to the requirements set forth in part six hundred seventeen of title six of the NYCRR.

3. To the extent practicable, the County Planning Commission shall coordinate its review with any other time limitations provided by statute or local law, ordinance or regulation.

§1612. Environmental Program.

a. **Definitions.** For purposes of this section 1612, the following words shall have the following meanings:

"Active parkland" shall mean parkland that is used for primarily for sports, exercise, entertainment or active play.

"Environmental bond issue" or "bond issue" shall mean the serial bonds issued by the County or the finance authority for the purpose of establishing an environmental program pursuant to this section;

"Environmental program" or "program" shall mean projects funded by serial bonds in any amount[s] up to a total of fifty million dollars issued for such purchase of development rights, preservation of natural or scenic resources, improvement of parkland, or other open space purposes. "Environmental program" shall not refer to projects funded by any moneys other than the environmental bond issue;

"Finance authority" shall mean the Nassau County Interim Finance Authority established pursuant to chapter eighty-four of the laws of two thousand or the Nassau County Sewer and Storm Water Finance Authority established pursuant to chapter six hundred eighty-five of the laws of two thousand three, as appropriate;

"Improvement" shall mean an addition made to parkland or an amelioration of the condition of parkland or an amelioration of the condition of an improvement on parkland amounting to more than routine maintenance;

"Natural or scenic resources" shall mean open areas and shall include but not be limited to, agricultural lands, including lands employed for the raising of livestock, defined as open lands actually used in bona fide agricultural production;

"Open space," "open land," or "open area" shall, as set forth in the section two hundred seventy-four of the general municipal law, mean any space or area: characterized by natural scenic beauty; or where the existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

"Open space purposes" shall have the definition ascribed to it under section 3-2.2.a (iii) of Chapter 272 of the laws of 1939 constituting Nassau County Administrative Code, (as amended by Local Law 7-2003).

b. **Establishment of environmental program.** Nassau County, or the finance authority are hereby authorized to issue, appropriate and expend fifty million dollars in serial bonds of the County of Nassau, via duly enacted bond ordinance(s) of the County of Nassau. All moneys raised pursuant to such bond issue shall be used to implement the environmental program pursuant to this subsection.

(i) The County Legislature may vote on a bond ordinance[s] and corresponding resolution[s] for a project or group of projects as per subdivision (e) of this local law in accordance with the Environmental Program. Thirteen affirmative votes for any bond ordinance shall authorize the County, or the finance authority to issue such bonds on behalf of the County.

(ii) The proceeds of all such bonds shall be deposited by the treasurer into one or more separately designated accounts and shall be used only for the purposes, and in the manner, set forth in this local law. The County may, in its discretion, deposit into such fund or funds additional moneys from other sources, including but not limited to, dedicated fees, grants, or any other moneys allowed by law; provided however that such additional moneys shall not be subject to the limitations set forth in this section.

c. **Dedicated tax and special revenue fund for payment of debt service.** A special revenue fund is hereby established, to commence in the first fiscal year in which debt service must be paid for bonds issued pursuant to the program, for the purpose of payment of debt service for projects authorized pursuant to the program. The County budget for the fiscal year in which debt service is payable on the bond pursuant to the program shall include a tax levy dedicated to the payment of debt service for County projects funded by the bond issue, provided that clean water projects pursuant to the program shall be funded by the district and the budget for the district commencing in fiscal year two thousand eight shall include a tax levy to pay the debt service for such clean water projects. The taxes assessed pursuant to this section shall appear as a separate item on the tax bill submitted to property owners. Moneys raised through the tax levies authorized by this subdivision shall be placed in the special revenue fund and shall be used only for payment of such debt service. The County may, in its discretion, and as legally permissible, deposit other revenues into such fund; provided, however, that such other revenues shall not be subject to the limitation contained in this subdivision.

d. **Expenditures of the proceeds of the environmental bond issue for open space purposes.**

The net proceeds raised through the environmental program bond issue shall be expended for open space purposes. The net proceeds can also be used for the following which may or may not be included within the definition of open space purposes:

(i) Open space preservation.

(a) All real properties purchased in fee under the open space program pursuant to this subdivision may be limited by deed restriction to future use for only park, recreation, agricultural or open space purposes and may be dedicated as perpetual preservation lands.

(b) Parcels of land from which development rights or other interests are acquired may remain preserved in perpetuity via a permanent conservation easement or other means that similarly preserves the open space, ecological, water recharge, or scenic value of the parcel, or the agricultural character of the parcel of land.

(c) The County may enter into agreements with other municipalities within the County; with the state; and with other entities, as permitted by law, to purchase[,] development rights, conservation easements or other rights or interests in land for the purposes set forth in this law; provided, however, that the County contribution cannot exceed fifty percent of the total cost of such purchases.

(ii) Parks expansion and improvement. A portion of the net proceeds raised through the environmental program bond issue shall be expended for park expansion and improvement as follows:

(a) Acquisition and improvement of active parkland. A portion of the net proceeds raised pursuant to the environmental bond issue shall be expended for the acquisition or improvement of land for use as active parklands, except golf courses. In addition to such acquisition or improvement by the County, for purposes of this subparagraph, such acquisition or improvement may also be accomplished through written agreements with a municipality within the County or with a duly incorporated or organized not-for-profit entity to improve the property for additional space for playgrounds, athletic fields, outdoor concerts, horseback riding or other equine activities, or other community recreational needs; provided, however, that all such agreements shall provide for continued public access to such property; at a minimum allowing free access to all Nassau County residents as spectators at sporting events, and providing in lease agreements a mechanism for Nassau County residents to maintain reasonable access to facilities when such facilities are not in active use by the contracting municipality or organization. The County may enter into agreements with municipalities within the County to acquire or improve parcels of land pursuant to this subparagraph, or may make grants to such municipalities; provided, however, that the County contribution cannot exceed fifty percent of the total cost of such acquisition or improvement.

(b) Park renovation and improvement. A portion of the net proceeds raised pursuant to the environmental bond issue shall be expended for improvements to Nassau County park, recreational, museum and historical facilities, and construction of facilities, amenities and other capital improvements of Nassau County park, recreational, museum and historical facilities. Expenditures of moneys raised through the environmental bond issue shall not be used for routine maintenance of parks.

(iii) Clean water projects. A portion of the net proceeds raised by the environmental bond issue shall be expended for capital projects of the district that will contain, abate or mitigate storm water carried pollutants that otherwise would impair the quality of Nassau County's north and south shore estuaries. Projects may include, but are not limited to, sediment collection basins, storm drain catch basins, drainage swales, and end-of-pipe treatment units, such as swirl-type collectors.

(iv) Brownfields clean up projects. A portion of the moneys raised pursuant to the bond issue

may be expended for capital projects that will remediate Brownfield sites. For the purposes of this provision, "brownfield site" shall have the meaning set forth in section 27-1405 of the environmental conservation law.

(v) Administration and oversight. The County or the finance authority shall endeavor to ensure the minimum amount necessary for administration and oversight of the program.

e. Procedure for open space and parkland acquisition.

(i) Proposals in furtherance of this program shall be made by the County Executive. Any such proposal may be made at any time and shall be transmitted in writing to the County Planning Commission and the Nassau County Open Space and Parks Advisory Committee ("OSPAC") for review, evaluation and recommendation.

(ii) Not later than sixty days following such transmittal, the County Planning Commission, with report from OSPAC in accordance with Local Law 7-2003, shall complete and transmit the findings of such review and evaluation to the County Executive, who may then introduce the proposal for consideration the Legislature, along with the findings of the County Planning Commission and OSPAC; provided, however, that failure by either the County Planning Commission or OSPAC to transmit findings within such period to the County Executive shall be deemed to constitute neutral findings and the County Executive may proceed for consideration by the Legislature.

(iii) Each such proposal and corresponding bond ordinance shall be subject to the approval of the County Legislature per the applicable County and state laws.

f. **Annual report.** No later than the first day of September of each year in which there are existing funds raised through the clean water, open space and parks bond issue, the County Executive shall report to the Legislature in writing, detailing the expenditures of such funds, the balance of funds remaining, and the balance of authorized expenditures during the prior year and recommendations for future years.

§3. If any clause, sentence, paragraph, subdivision, section or part of this local law or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this local law or its application to the person or circumstance directly involved in the controversy in which such judgment shall be rendered.

§4. SEQRA Determination. This legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this action is an unlisted action under the provisions of Title 6 NYCRR Part 617, and that based on an evaluation of the environmental criteria set forth in §617.7(c) that are considered to be indicia of significant adverse environmental impacts, along with the recommendation of the Nassau County Planning

Commission acting in its advisory capacity to the legislature, that such action will not have significant adverse impacts on the environment, and that no additional environmental review or action is necessary. A record of the Planning Commission's advisory negative declaration for this action shall be maintained in a file, readily accessible to the public, at the office of the Planning Commission.

§5. This local law shall take effect immediately and shall apply to all applications submitted to the County Planning Commission subsequent to such effective date.