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Local Law Filing

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

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

Town of Wayland

Local Law No. __1__ of the year 2022

**A LOCAL LAW REGULATING DWELLINGS AND OTHER STRUCTURES IN THE
TOWN OF WAYLAND, STEUBEN COUNTY, NEW YORK**

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

*See attached for the complete text of the local law

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

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

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

I hereby certify that the local law annexed hereto, designated as **Local Law No. 1 of 2022** of the **Town of Wayland** was duly passed by the Town Board on **February 9, 2022** in accordance with the applicable provisions of law.

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

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

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ on _____ 20 _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

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

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

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

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

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

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

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

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

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

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

(Seal)

Date: February 10, 2022

TOWN OF WAYLAND, NEW YORK
LOCAL LAW NO. 1 OF 2022:
A LOCAL LAW REGULATING DWELLINGS AND OTHER STRUCTURES
IN THE TOWN OF WAYLAND, STEUBEN COUNTY, NEW YORK

WHEREAS, Local Law No. 4 of 1995 of the Town of Wayland contains provisions regulating dwellings and other structures and also provisions pertaining to several other topics, and the Town Board has deemed it to be in the Town's best interests to repeal said Local Law and replace it with topic-specific Local Laws, thus providing greater clarity and administrative efficiency for Town residents; and

WHEREAS, the Town Board wishes to enact a new Local Law for the purpose of regulating dwellings and other structures within the Town of Wayland.

NOW THEREFORE, be it enacted by the TOWN BOARD of the Town of Wayland as follows:

SECTION 1. Authority

This Local Law is adopted pursuant to the authority granted to the Town in section 10 of New York State Municipal Home Rule Law and in section 130 (15) of New York State Town Law.

SECTION 2. Title

This Local Law shall be known as, "A Local Law Regulating Dwellings and Other Structures in the Town of Wayland, Steuben County, New York."

SECTION 3. Purpose

The purpose of this Local Law is to promote the health, safety, and welfare of residents of the Town of Wayland by providing for the orderly development of dwellings and other structures within the Town.

SECTION 4. Definitions

For the purpose of this Local Law, the following terms shall have the meanings ascribed to them below:

Construction Activity: Any and all stages of work directly associated with the construction, erection, or installation of any Structure, including but not limited to the creation of a foundation by pouring or other means or the installation of piers onto which a Structure will be placed.

Dwelling: Any Structure used as the living and/or sleeping quarters of one or more persons. Structures meeting the definition of a Dwelling include, but are not limited to, single-unit (a.k.a. single-family) homes, multi-unit (a.k.a. multi-family) homes, mobile homes, the structures commonly known as "tiny homes," and campers or recreational vehicles that are connected to one or more utilities and occupied as living and/or sleeping quarters.

Mobile Home: A prefabricated, transportable Dwelling attached to a permanent chassis and designed to be used for living and/or sleeping quarters, whether on wheels, rigid supports, or a foundation.

Mobile Home Park: Any tax parcel, portion of a tax parcel, or combination of multiple tax parcels where three or more Mobile Homes are located and connected to typical residential utilities and where at least one Mobile Home is occupied for residential use.

Structure: Anything constructed, erected, or installed which requires or occupies a long-term or reasonably permanent location on or attachment to the ground. Dwellings are one type of Structure. Other examples of Structures include buildings of any kind, storage sheds, swimming pools, and campers or recreational vehicles that are connected to one or more utilities and occupied in the manner of a Dwelling.

SECTION 5. Building Permit Requirement for All Structures

1. **Permits.** No person, corporation, partnership, or other entity of any kind shall engage in any Construction Activity within the Town of Wayland without first obtaining a separate building permit for each proposed Structure.

2. **Application.** The application for a building permit shall include the following:

- a. A layout or plan showing the actual dimensions of the proposed Structure and the exact location on the subject tax parcel where it will be placed.
- b. All information required on the building permit application form, which is available from the Town Code Enforcement Officer.
- c. A non-refundable application fee in an amount established by the Town Board.

3. **Application Review Procedure.** The Town Board shall have authority to review and approve or disapprove all complete building permit applications, and hereby delegates this authority to the Code Enforcement Officer. The Code Enforcement Officer shall review and approve or disapprove all complete building permit applications in accordance with this Local Law. If an application is approved, the Code Enforcement Officer shall issue a building permit to the applicant and shall furnish a copy of the building permit and supporting application materials to the Town Assessor.

4. **Permit Duration.** A building permit shall be valid for one year from the date of issuance. If construction is not completed within one year from the date of issuance, the applicant shall seek an extension, which can be granted in the discretion of the Code Enforcement Officer.

SECTION 6. Reasonableness; Disclaimer of Liability

1. **Tax Purposes.** The building permits required by this Local Law are in all respects reasonable for tax purposes.

2. **Disclaimer of Liability.** Neither this Local Law nor the issuance of any building permit shall create liability for the Town of Wayland or any officer or employee thereof related to any losses, harm, or damages resulting, directly or indirectly, from Construction Activity or any other site activity.

SECTION 7. Rules Applicable to Mobile Homes

Note: Certain rules and requirements applicable to Mobile Homes located within Mobile Home Parks are set forth in Local Law 3 of 2021 of the Town of Wayland.

1. **Highway Parking Prohibited.** No Mobile Home shall be parked, placed, or allowed to remain upon any public highway or right-of-way in the Town of Wayland.

2. **Building Permit Required for Mobile Homes Outside Mobile Home Parks.** No person, corporation, partnership, or other entity of any kind shall place, install, or allow to be placed on any real property in the Town of Wayland a Mobile Home outside of a permitted Mobile Home Park, without first obtaining a separate building permit for each such Mobile Home.

Notwithstanding the preceding sentence, no such building permit shall be required for a Mobile Home that is:

- a. unoccupied and stored or held for sale or lease for a period not exceeding 180 days; or
- b. permanently attached to the real property on which it is located as of the effective date of this Local Law.

3. **Application.** The application for a building permit for a Mobile Home shall include the following:

- a. A layout or plan showing the actual dimensions of the Mobile Home and the exact location on the subject tax parcel where it will be placed or installed.
- b. All information required on the building permit application form, which is available from the Town Code Enforcement Officer.
- c. A non-refundable application fee in an amount established by the Town Board.

4. Application Review Procedure. The Town Board shall have authority to review and approve or disapprove all complete building permit applications for Mobile Homes, and hereby delegates this authority to the Code Enforcement Officer. The Code Enforcement Officer shall review and approve or disapprove all complete building permit applications for Mobile Homes in accordance with this Local Law. If an application is approved, the Code Enforcement Officer shall issue a building permit to the applicant and shall furnish a copy of the building permit and supporting application materials to the Town Assessor.

5. Permit Duration. A building permit for a Mobile Home shall be valid for one year from the date of issuance. If the Mobile Home has not been installed on the premises and connected to all standard residential utilities within one year from the date of issuance, the applicant shall seek an extension, which can be granted in the discretion of the Code Enforcement Officer.

6. Requirements for Mobile Homes.

- a. All Mobile Homes, whether pre-existing as of the date of this Local Law or proposed for future installation or relocation, shall meet the following requirements within 30 days after the effective date of this Local Law or 30 days after installation, whichever is later, and at all times thereafter.
 - i. Each Mobile Home shall be skirted with a permanent material.
 - ii. Each Mobile Home shall be connected to a sewer system or a properly permitted onsite wastewater disposal (septic) system meeting all applicable requirements of the Town of Wayland and New York State laws and regulations.
- b. In addition to the requirements in subsection “a” immediately above, all Mobile Homes first installed on real property or moved to a new location within the Town of Wayland after the effective date of this Local Law, whether or not replacing an existing Mobile Home in the same location, shall meet the following requirements within 30 days after installation, and at all times thereafter.
 - i. Each Mobile Home shall have a potable water supply.
 - ii. Any fuel tank or tanks supplying a Mobile Home shall be located in the rear yard of the Mobile Home (with the side of the Mobile Home facing the street considered as the front yard) and shall be placed no closer than five feet away from any exit of the Mobile Home.
 - iii. Each Mobile Home shall comply with all applicable requirements of the then-current version of the Residential Code of New York State.
 - iv. The electrical service and wiring within each Mobile Home shall comply with all applicable electrical code requirements and standards as referenced in the then-current version of the New York State Uniform Fire Prevention and Building Code.
 - v. Each Mobile Home shall display a manufactured home Certification Label (commonly known as a “HUD tag”).

SECTION 8. Minimum Land Area and Other Requirements for the Construction, Installation, and Placement of Dwellings and other Structures

The following requirements apply to all Dwellings and other Structures placed, installed, or constructed on any land within the Town of Wayland after the effective date of this Local Law.

1. Land Area for Single-Unit (a.k.a. Single-Family) Dwellings. No single-unit Dwelling shall be placed, installed, or constructed on any land within the Town of Wayland, other than a Mobile Home located within a properly permitted Mobile Home Park, unless the tax parcel on which said Dwelling is to be placed, installed, or constructed contains at least one acre of land. If more than one single-unit Dwelling is placed, installed, or constructed on the same tax parcel, said tax parcel shall contain at least one acre of land per Dwelling. Notwithstanding the foregoing provisions of this paragraph, the land area requirement in this paragraph shall not prohibit the placement, installation, or construction of a single-unit Dwelling on a tax parcel containing less

than one acre if: (i) said tax parcel existed as of the effective date of this Local Law, and (ii) the proposed Dwelling complies with all other requirements of this Local Law or is the subject of a variance granted pursuant to this Local Law providing relief from any requirement(s) with which it does not comply.

2. Land Area for Multi-Unit (a.k.a. Multi-Family) Dwellings. No multi-unit Dwelling shall be placed, installed, or constructed on any land within the Town of Wayland unless the tax parcel on which said Dwelling is to be placed, installed, or constructed meets the following size requirement: 1.5 acres for a two-unit Dwelling, and one additional half acre for each additional residential unit.

3. Parking Requirements for Dwellings. Each single-unit Dwelling shall have a minimum of two parking spaces, and each multi-unit Dwelling shall have a minimum of two parking spaces per unit; all such spaces shall be located on the same tax parcel as the Dwelling.

4. Setback Requirements.

- a. Each Dwelling shall have the following minimum yards, measured from the front, side, or rear building line (as applicable).

Front yard: 50 feet, measured to the centerline of the roadway.

Side yards: 25 feet on each side, measured to the tax parcel boundaries.

Rear yard: 25 feet, measured to the tax parcel boundaries.

Every part of a required yard surrounding any Dwelling must be open to the sky and unobstructed, with the following exceptions:

- i. Accessory Structures, such as storage sheds or swimming pools, may be present in a rear or side yard but must be located at least three feet from any tax parcel boundary.
 - ii. Porches, balconies, steps, sills, landscaping, and ornamental features may be present but must be located at least three feet from any tax parcel boundary.
 - iii. Fences, walls, or similar Structures that comply with Local Law No. 3 of 2020 of the Town of Wayland are allowed.
 - iv. Retaining walls of any necessary height to perform their retaining-wall function are allowed.
- b. No accessory Structures of any kind, including but not limited to swimming pools, storage sheds, decks, or porches, nor any trees, shrubs, or other landscaping shall be constructed, installed, placed, or planted within any portion of a Town-owned or Town-controlled right of way or easement area unless permission for the same has been obtained from the Town Highway Superintendent.

5. Water and Sanitation. Each Dwelling shall be connected to a sewer system or a properly permitted onsite wastewater disposal (septic) system meeting all applicable requirements of the Town of Wayland and New York State laws and regulations, and to a potable water supply.

6. Temporary Non-Conforming Use. The Code Enforcement Officer, at his or her discretion, may authorize the temporary non-conforming placement and use of a Mobile Home to be occupied by the owner or occupant of an existing Dwelling while said Dwelling is being substantially altered, or to be occupied by the owner of a tax parcel on which a new Dwelling is being constructed in compliance with this Local Law. Said temporary authorization shall remain in force for a time period determined by the Code Enforcement Officer, but not to exceed six months. The Code Enforcement Officer may, in his or her discretion, extend this authorization beyond six months upon the request of the owner or occupant of the affected real property if such an extension is needed to complete the construction or alteration work.

SECTION 9. Variances

1. Any owner or occupant of real property in the Town of Wayland may seek a variance authorizing a use of land that does not comply with a rule or requirement set forth in this Local Law.

2. **Application.** The application for a variance shall include the following:

- a. A layout, plan, or other drawing(s) depicting each and every requested variance and the boundaries of the affected tax parcel(s).
- b. All information required on the variance application form, which is available from the Town Code Enforcement Officer.
- c. A non-refundable application fee in an amount established by the Town Board; a separate fee must be submitted for each requested variance.

3. **Review for Completeness.** All applications for variances shall be submitted to the Code Enforcement Officer. Once the Code Enforcement Officer determines that a variance application is complete, the application shall be presented to the Zoning Board of Appeals for consideration.

4. **Public Hearing.** The Zoning Board of Appeals shall not act to approve, disapprove, or approve with conditions any requested variance until it first conducts a public hearing in accordance with this Local Law.

- a. *Notice.* At least 10 days prior to the public hearing, notice of the same, specifying the date, time, and location of the public hearing and the general subject matter of the variance application, shall be delivered as follows:
 - i. To the public, via publication in the official newspaper of the Town of Wayland and posting of a notice in the Town Hall;
 - ii. To the applicant, via personal delivery or first-class U.S. mail;
 - iii. To the owner of any tax parcel that is the subject of the variance application, if the applicant is not the same as the owner, via personal delivery or first-class U.S. mail; and
 - iv. To the owner of any real property that shares any portion of a tax parcel boundary with any tax parcel that is the subject of the variance application, via personal delivery or first-class U.S. mail.

If any of the notices described above are provided via first-class U.S. mail, they shall be deemed delivered on the next business day after the postmark date.

- b. *Conduct of Hearing.* At the public hearing, the applicant and any member of the public may appear in person or by agent or attorney and shall have the opportunity to speak to the Zoning Board of Appeals about the application. Members of the Zoning Board of Appeals may ask questions to gather additional information, and the board may hold the public hearing open for more than one meeting in its reasonable discretion.

5. **Decision.** Within 45 days after the close of the public hearing, and after deliberation and consideration of the matter, the Zoning Board of Appeals shall decide on the variance application by approving, disapproving, or approving with conditions the application by simple majority. If State Environmental Quality Review Act review of the application is required pursuant to applicable New York State laws or regulations based on the nature of the requested variance, then the Zoning Board of Appeals shall not decide on the application until said State Environmental Quality Review Act review is complete. In deciding on an application, the Zoning Board of Appeals shall consider the following factors:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the variance;
- b. Whether the benefit sought by the applicant can be achieved by some other method;
- c. Whether the requested variance is substantial;
- d. Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood; and
- e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision by the Zoning Board of Appeals, but shall not necessarily preclude the granting of the requested variance.

6. Precedential Value. No variance granted pursuant to this Local Law shall be deemed to set any precedent entitling any future applicant (including the original applicant) to a similar variance; each application shall be considered on its own merits based on the information presented to the Zoning Board of Appeals and the facts and circumstances concerning the affected real property.

SECTION 10. Penalties

1. Any person who violates any provision of this Local Law shall be guilty of a violation and subject to a fine of not less than \$50.00 nor more than \$500.00 for a first violation, and, for each subsequent violation within a five-year period, a fine of not less than \$50.00 nor more than \$1,000.00 or imprisonment for not more than 15 days, or both fine and imprisonment. Each week of continued violation shall constitute a separate violation. If the violator is a corporation, partnership, or other entity of any kind, the violative conduct shall be ascribed to, and the associated penalties may be imposed against, any person in a controlling or decision-making capacity for said entity with respect to the violative conduct.
2. In addition to the penalties set forth above, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to:
 - a. Compel compliance with or restrain by injunction the violation of any provision of this Local Law; and
 - b. Collect from the violator(s) any reasonable attorney's fees and other costs incurred by the Town to enforce this Local Law against said violator(s) and to address the corresponding violations through civil and/or criminal proceedings.
3. Any violation of this Local Law shall be deemed a violation committed by (i) all owners of the premises, and also by (ii) all persons actually occupying the premises and/or legally entitled to possession thereof, except in circumstances where said persons are tenants who do not have control over, nor the legal right to control or to cure, the subject matter of the violation due to their status as tenants.

SECTION 11. Severability

If any clause, sentence, paragraph, or section of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the controversy in which such judgment was rendered.

SECTION 12. Repealer

Town of Wayland Local Law No. 4 of 1995 is hereby repealed in its entirety (to the extent not already repealed by other Local Laws).

SECTION 13. Effect on Other Laws

The provisions of this Local Law shall take precedence over any other law or ordinance in effect in the Town of Wayland to the extent that such other law or ordinance is inconsistent with this Local Law, except that this Local Law shall not take precedence over Local Law No. 1 of 1991 with respect to the geographic area around Loon Lake that is the subject of said Local Law No. 1 of 1991. In addition, for the avoidance of doubt, this Local Law shall not apply within the boundaries of the Village of Wayland.

SECTION 14. Effective Date

This Local Law shall be effective upon filing with the New York State Secretary of State.