

ARTICLE 19-100-2: SEQR LAW

The Code of the Town of Busti is hereby amended to add "Article 19-100/Environmental Quality Review Law" as follows:

Section 19-101. Title

This local law will be known as the Town of Busti Environmental Quality Review Law.

Section 19-105. Purpose

The purpose of this law is to implement, for the Town of Busti, the provisions of the State Environmental Quality Review Act and the State Environmental Quality Review Regulations, thereby incorporating environmental factors into existing planning and decision-making processes.

Section 19-110.

This law is adopted under authority of the Municipal Home Rule Law, the State Environmental Quality Review Act, and the State Environmental Quality Review Regulations.

Section 19-115. Definitions

"State Environmental Quality Review Act (SEQR)" means Article 8 of the Environmental Conservation law, which is chapter 43-b of the Consolidated laws of the State of New York.

"EAF" means Environmental Assessment Form.

"EIS" means Environmental Impact Statement.

All other terms for which definitions are given in SEQR and/or Part 617, have the same meanings in this local law.

Section 19-120. Applicability

All agencies, boards, departments, offices, other bodies or officers of the Town must comply with SEQR, Part 617, and this law, to the extent applicable, prior to carrying out, approving or funding any action, other than an Exempt, Excluded, or Type II action.

Section 19-125. Severability

The provisions of this local law are severable. If any part or provision of this local law is found invalid, such finding will apply only to the particular provision and circumstances in question. The remainder of this local law, and the application of the disputed provision to other circumstances, will remain valid.

Section 19-130. Lead Agency

(a) The lead agency is the agency (i.e., board, department, office, other body, or officer of the Town) principally responsible for carrying out, funding, or approving an action. The lead agency is responsible for determining whether an EIS is required for the action, and for preparing and filing the EIS if it is required.

(b) Where more than one agency is involved, the lead agency is determined and designated as provided in sections 6 and 7 of Part 617, except that for the following specific Type I and unlisted Actions, in cases where a federal or state agency permit or approval is not necessary, the lead agency is the Planning Board of the Town of Busti for the following:

(i) Adoption, amendment, or change in zoning or land use regulations

(ii) Construction or expansion of Town buildings, structures, and other facilities including highways within the Town

(iii) Variances

(iv) Purchase, sale, and/or lease of real property by the Town

(v) Planned unit development or cluster zoning

(vi) Site plan review and special use permits

(vii) Construction or expansion of a nonresidential facility

(c) The Planning Board of the Town of Busti will be the Town's clearinghouse for lead agency designation. It will assist agencies and applicants to identify other federal, state, and local agencies that may be involved in approving, funding, or carrying out Type I and Unlisted Actions. The clearinghouse will make recommendations on designation of lead agencies for particular actions.

(d) Environmental review of actions involving a federal agency will be processed in accordance with section 16 of Part 617.

Section 19-135. Environmental Assessment and Determination of Significance

(a) When an agency, department, body, board, or officer of the Town contemplates directly carrying out, funding, or approving any Type I action, a Full Environmental Assessment Form (EAF) must be prepared by it or on its behalf. When an Unlisted action is contemplated, either a full or short form EAF, as appropriate, must be prepared. The EAF forms given in Appendices A and B of Part 617 will be used as models, but may be modified to meet the needs of particular cases. However, the final scope of such a modified EAF must be at least as comprehensive as the scope of the model forms.

(b) When any person submits an application for funding or a permit or other approval of a Type I or Unlisted Action to any agency, department, body, board, or officer of the Town, an EAF must accompany the application. For Type I actions a Full EAF must be prepared: for unlisted actions either the Full EAF or the short-form may be used as appropriate. An applicant may choose to prepare a Draft EIS in place of any EAF.

(c) The lead agency must make a determination of environmental significance of the action. This determination must be based on the EAF, or with respect to Unlisted actions its own procedures, as the case may be, and on such other information as it may require. The criteria stated in section II of Part 617 must also be considered by the lead agency in making its determination of significance. The determination must be made within 15 days of its designation as lead agency, or within 15 days of its receipt of all information it requires, whichever is later.

(d) For Type I actions, the lead agency must give public notice and file a determination of non-significance as provided in subdivision 10(b) of Part 617. For Unlisted actions, the lead agency must send a determination of non-significance to the applicant and maintain its own records thereof in accordance with subdivisions 7 (e) and 10 (f) of Part 617.

(e) If the lead agency makes a determination of non-significance, the direct action, approval, or funding involved will be processed without further regard to SEQR, Part 617, or this local law.

(f) The time of filing an application for approval or funding of an action commences from the date the determination of environmental non-significance is made. If the applicant prepared a Draft EIS in lieu of an EAF, the time of filing commences from the date the lead agency accepts the Draft EIS as adequate in scope and content, and commences the public comment period.

Section 19-140. EIS Preparation

(a) If, based on review of the EAF and other information, the lead agency determines that the proposed action may be environmentally significant, then an EIS must be prepared.

(b) If an EIS is required, the lead agency must proceed as provided in sections 8, 9, and 10 of Part 617. The applicant will normally prepare the Draft EIS. If the applicant fails to prepare a Draft EIS or prepares a Draft EIS which is unacceptable to the lead agency, the lead agency may either prepare a Draft EIS itself, discontinue further processing until the applicant can provide an acceptable Draft EIS, or deem the application abandoned and discontinue review.

(c) If a public hearing is held on the Draft EIS, it must whenever possible be concurrent with any other hearing on the application.

Section 19-145. Fees for Review and Preparation of EIS

(a) The fees for review or preparation of an EIS involving approval of funding of an action will be fixed from time to time by resolution of the Town Board.

(b) Fees so fixed will be consistent with the limitations set by section 17 of Part 617. When the EIS is prepared by the applicant, fees will reflect actual expenses of reviewing it. When the EIS is prepared by an agency on behalf of the applicant, fees will reflect the cost of preparation, including publication of notices, but not the cost of environmental review by the Agency. However, the lead agency may not charge a fee for its determinations of significance.

ARTICLE 888: MISCELLANEOUS PROVISIONS

Section 19-150. Critical areas

Critical areas, of environmental concern will be designated from time to time by resolution of the Town Board in accordance with provisions of subdivision 4 (j) of Part 617.

Section 19-155. Type I actions

(a) For purposes of this local law, Type I actions include all those given in section 12 of Part 617.

(b) In addition, the following are deemed Type I actions:

None

Section 19-160. Type II actions

(a) For purposes of this local law, Type II actions include all those listed in section 13 Part 617.

(b) In addition, the following are deemed Type II actions:

None

7/10/89