

VILLAGE OF BROOKVILLE
LOCAL LAW 5-2016
“SITE PLAN REVIEW”

A local law to amend Article IX, “*Administration and Enforcement*” of Chapter 218, “*Zoning*,” of the Code of the Village of Brookville to adopt new Site Plan Review regulations to establish a procedure for site plan review and approval for new land use, reuse, development, redevelopment and other construction activities, and create appropriate standards for such review.

BE IT ENACTED by the Board of Trustees of the Village of Brookville as follows:

SECTION 1. New Section 218-87 of Chapter 218, Article IX, “*Administration and Enforcement*” of the Code of the Village of Brookville as last amended by the Board of Trustees by Local Law 2-2016 on March 15, 2016 is hereby added, as follows:

§218-87. Site Plan Review

A. Findings; legislative intent

(1) The Board of Trustees of the Incorporated Village of Brookville, (hereinafter the “Board”), hereby finds that in order to ensure that future land use, reuse, development and redevelopment and other construction activities within the Village of Brookville (hereinafter the “Village”) will be planned and designed to have a harmonious relationship with the existing or permitted use of contiguous land and with surrounding neighborhoods and to conserve the values of property and encourage the most appropriate use of land and to protect and promote the rural nature of the Village, its open space and natural environs, the topographical features of the Village and its unique suburban characteristics and to otherwise promote the health, safety, welfare, comfort and convenience of its residents and the occupants and users of the land and buildings in particular, site plans for future land use, reuse, development and redevelopment and other construction activities proposed within the Village should be subject to review and approval by the Village of Brookville Planning Board (hereinafter the “Planning Board”).

(2) It is, therefore, the intent of the Board, and the purpose of this Section, to establish a procedure for site plan review and approval for new land use, reuse, development, redevelopment and other construction activities proposed within the Village consistent with and pursuant to §7-725-a of the Village Law of the State of New York and to authorize the Planning Board to review and provide it with appropriate standards in its review of all site plans for compliance with certain site plan elements, which include, where appropriate, those relating to parking, means of access, traffic, screening, lighting, signs, landscaping, architectural features, location and dimension of buildings, adjacent land uses and physical features meant to protect adjacent buildings and land uses, as well as any additional site plan elements specified herein.

B. Authority of the Planning Board. Pursuant to Village Law § 7-725-a, the Planning Board is hereby authorized to review and approve, approve with modifications or conditions, or disapprove site plans submitted in accordance with the standards and procedures set forth in this

section. Upon approval of a site plan, the Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan. Thereupon, such imposed conditions and restrictions must be met before the issuance of any building permits by the Building Inspector or any other applicable enforcement agent or officer of the Village.

C. Activities requiring site plan review; approval required.

(1) The following applications for land use, reuse, development and redevelopment and construction activities within the Village shall require site plan review and approval by the Planning Board:

(a) Every completed application for a building permit in any zoning district for the construction of any new building or structure within the Village or for the reconstruction, enlargement, modification or alteration of any existing building or structure within the Village including any additions thereto which would alter or increase the existing Coverage of the building or structure or which would alter or increase the existing Floor Area of the existing building or structure or which requires any change in grade.

(b) Every completed application for a building permit in any zoning district for the reconstruction of a building or structure damaged by fire or other incident, the cost of which equals or exceeds 50% of the replacement cost of the building or structure at the time the damage occurred.

(c) Any application for a use variance or a conditional use permit.

(d) Every application for the installation or modification of berms pursuant to and subject to the additional standards under subsection E of this Section.

(e) Every application for excavation pursuant to and subject to the additional standards under subsections F of this Section.

(f) Every application for the creation or alteration of road opening onto a Village Street.

(g) Every application for a water tower by a duly authorized public water authority or district.

(h) Every application for creation, installation or alteration of public utilities.

(i) Every application for the harboring or keeping of Domestic Animals or horses.

(2) All applications for building permits hereunder shall be referred by the Building Inspector to the Planning Board for site plan review and approval. The referral shall be made prior to the Building Inspector's review of the plans and drawings as required by the State Building Code, the

Village Code and any and all rules and regulations, and shall be made in conformity with this section. No building permit requiring site plan review and approval shall be issued by the Building Inspector except upon authorization of and in conformity with a site plan approved by the Planning Board.

(3) Minor construction activities or minor modifications to an approved site plan, defined as those which will have minimal impact with regard to any of the guidelines or standards of this section, may be submitted informally to the Planning Board and if two or more members of the Planning Board agree that the activity or modification is minor in nature, those two members may approve the activity.

D. Site plan applications, guidelines and considerations.

(1) After referral by the Building Inspector, the property owner or his representative shall submit a formal application for site plan approval to the Village Clerk at least 30 days prior to the Planning Board meeting at which the site plan is to be considered and, except as otherwise provided herein, shall include 12 copies of each of the following items, to be submitted in separate and complete sets:

(a) Application form for site plan review, in form and substance satisfactory to the Building Department.

(b) Site survey, showing all existing structures, prepared, signed and sealed by a licensed land surveyor.

(c) Site plan for the proposed land use, drawn at a scale of not less than one inch equals 20 feet, signed and sealed by a licensed architect or engineer, and which shall include the following information:

(i) A title block located in the lower right-hand corner of the site plan and shall include the name and address of the applicant and record owner of the property, the property's designation on the Nassau County Land and Tax Map and the title of the project. If the applicant or property owner is a corporation, the name and address of the president and secretary shall be submitted with the application.

(ii) A date block of the site plan adjacent to the title block containing the date of preparation and dates of all revisions.

(iii) A key map showing the location of the property with reference to surrounding areas and existing street intersections within 1,000 feet of the boundaries of the subject premises.

(iv) A written and graphic scale, as well as a North arrow.

(v) Zoning district boundaries shall be shown on the site plan as they affect the parcel.

(vi) Survey data showing boundaries of the property, required building and setback lines and lines of existing and proposed streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.

(vii) Reference to any existing covenants, restrictions, easements or exceptions that are in effect or are intended to cover all or any of the property. A copy of such covenant, restriction, easement or exception shall be submitted with the application. If there are no known covenants, deed restrictions, easements or exceptions affecting the site, a notation to the effect shall be indicated on the site plan map.

(viii) Location of existing structures on the site. The plan shall contain a notation indicating any structures that are to be removed.

(ix) All distances, as measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with any other street.

(x) Location plans and elevations of all proposed structures.

(xi) Location of all existing and proposed driveways, walkways and impervious surfaces located on the property.

(xii) Location of all existing storm drainage structures, soil erosion and sediment control devices and utility facilities, including electric, water, telephone and cable television, which are located within the property lines.

(xiii) Existing and proposed contours according to United States Geodetic Survey Datum at intervals not to exceed two feet. Existing contours are to be indicated by solid lines; proposed contours are to be indicated by dashed lines.

(xiv) Existing elevations of the road or right-of-way contiguous to the site.

(xv) The location of all existing significant natural features such as boulders, rock outcrops, watercourses, depressions, ponds, marshes and other wetlands, whether or not officially mapped.

(xvi) All proposed streets, with profiles indicating grading and cross sections showing width of roadway, location and width of sidewalk, if any, and location and size of utility lines.

(xvii) All means of vehicular ingress and egress to and from the site onto public or private streets, showing the size and location of driveways and curb cuts and

sidewalks, if any.

(xviii) All provisions for pedestrian access to the site and internal pedestrian circulation.

(xix) The location and design of any off-street parking areas, loading or outdoor storage areas.

(xx) The location of all proposed water lines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment.

(xxi) The proposed location, direction of illumination, power and time of proposed outdoor lighting.

(xxii) The location, design and type of construction of all proposed signs.

(xxiii) The proposed stormwater drainage system.

(xxiv) Structural elevation calculations.

(xxv) Zoning calculations.

(xxvi) Illustration of all proposed structures as they relate to sky exposure plane.

(xxvii) Delineation of Flood Plain Zone as shown on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and adopted by the Village of Brookville.

(xxviii) Delineation of tidal and freshwater wetland areas as designated by the New York State Department of Environmental Conservation.

(d) Landscaping plan, drawn at a scale of not less than one inch equals 20 feet, and which contains the following information:

(i) Outlines of all existing and proposed structures, driveways, walkways and impervious surfaces to be located on the property.

(ii) The location of all existing significant natural features such as boulders, rock outcrops, watercourses, depressions, ponds and marshes.

(iii) The location of all trees, identified by type or species and size, bearing a trunk circumference greater than 20 inches measured at a point four feet six inches above ground level.

(iv) The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be removed.

(v) The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be preserved.

(vi) Location of all trees, shrubs and/or other vegetation, identified by size, height and type or species, which are to be provided.

(vii) A separate list of all trees and shrubs, identified by size, height and type or species, that are to be removed and/or to be provided.

(e) Photographs (two sets only) of existing structures of the property and surrounding landscaping/screening.

(f) Environmental assessment form completed and signed by the applicant.

(g) Original building permit application which was referred by the Building Department.

(h) Building Department's referral letter.

(i) Identification of all required permits or approvals from the Village or any other governmental body, and a record of application for and status of such permits or approvals.

(j) List of the names of all owners of property contiguous to the subject premises and, if the subject premises is adjacent to a private road, the owners of all other properties adjacent to the private road, together with section, block and lot numbers of said property, as shown on the current tax roll of the Village.

(k) Certificate of title and deed(s) for the existing lot(s).

(l) Letter from the water district regarding availability of water to the site (for new structures only).

(m) Any other information found by the Planning Board or Building Department to be necessary to reasonably determine compliance of the site plan with this section and Village Law § 7-725-a.

(n) A stormwater pollution prevention plan consistent with the requirements of Chapter 175 shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 175. The approved site plan shall be consistent with the provisions of this Chapter 175.

(2) The Building Department may waive any of the above requirements for which it

determines to be unnecessary for the appropriate review of a particular application, but such waiver shall not be binding upon the Planning Board.

(3) In reviewing any application for site plan approval, the Planning Board shall be guided, as appropriate, by the following considerations:

(a) The location, arrangement, size, design, and general site compatibility of buildings and structures.

(b) The adequacy and arrangement of vehicular access and circulation, off-street parking, loading, outdoor storage, pedestrian traffic and circulation. All driveways to a public or private street shall be so located to afford maximum safety and convenient ingress and egress to said roadway, to minimize conflict with the flow of traffic, and shall be designed to permit emergency vehicles and service vehicles such as delivery trucks, sanitation vehicles and the like to have reasonable access to, and space for, their intended functions.

(c) The adequacy of stormwater and drainage facilities. In addition to the requirements of Chapter 175, "Stormwater Management and Erosion & Sediment Control," provisions shall be made for the drainage of surface runoff waters in and from the premises so that flooding and erosion of the property and the property of others will be prevented, to the maximum extent practicable.

(d) The adequacy of water supply, sewage disposal facilities, fire lanes and other emergency zones, and the provision of fire hydrants.

(e) The adequacy, type and arrangement of trees, shrubs and other landscaping and natural screening constituting a visual and noise buffer between the applicant's land and adjoining lands, including the maximum feasible retention of existing vegetation.

(f) Protection of adjacent or neighboring properties against direct illumination and glare, noise, unsightliness and nuisances.

(g) Materials and design of paving, lighting fixtures, retaining wall, bulkheads, fences, curbs, benches, etc. which shall be of quality appearance, easily maintained and indicative of their function.

(h) The overall impact of the proposed development on the neighborhood and surrounding uses, including compatibility of architectural and design considerations.

E. Additional standards for berms.

(1) No berm shall be constructed, erected, installed, excavated or established without first submitting a building permit application to the Building Inspecting and thereafter obtaining site plan approval hereunder. No construction or any work in connection with such berm may be commenced until a building permit is issued by the Building Inspector.

(2) All berms shall be constructed, erected, installed, excavated, established or maintained in conformity with the following standards:

(a) The material to be used shall be uncontaminated and approved by the Village Building Inspector, and shall not contain asphalt, fly ash, concrete, demolition or other debris.

(b) The outer edge of the berm shall be at least 15 feet from the nearest edge of the road surface and must be within the property boundary.

(c) The slope of the outer surface of the berm shall not exceed an angle of 30° from the natural grade.

(d) The width of the berm shall be at least four feet at the top.

(e) The height of a berm shall not exceed four feet above the natural grade.

(f) Berms shall be constructed only along roadways. A berm shall not be constructed between adjoining private properties.

(g) Berms shall be landscaped on all visible surfaces with living ground cover and shall be maintained in a neat and clean condition. Such landscaping shall be of a size, type and height approved by the Planning Board.

(h) The Planning Board may require the installation of dry wells or other drainage facilities as it deems necessary.

(i) Trees retained within a berm shall be protected with wells around them of a type, design and diameter approved by the Planning Board.

(j) The provisions of Chapter 197 pertaining to trees shall apply to this subsection.

(3) Prohibitions

(a) No fence shall be erected atop a berm.

(b) A berm shall not obstruct vision at an intersection in a manner which would create a safety hazard to motorists or pedestrians.

(c) A berm shall not create a drainage problem on Village or other municipal or state property, nor onto adjacent or adjoining private property.

(d) A berm shall not create stagnant water or ponding areas on any real

property in the Village, unless in a designated drainage reserve area.

F. Additional requirements and standards for excavation

(1) Approval. No stone, sand, gravel, topsoil, earth of any kind or other natural materials shall be moved, removed, excavated or deposited in any way, including, without limitation, any such moving, removing, excavating or depositing in connection with a reduction or increase in grade of any kind, from or onto any land in the Village unless a building permit application shall first have been submitted to the Building Inspector and thereafter obtaining site plan approval hereunder. No construction or work may be commenced in connection with the above until the issuance of a building permit by the Building Inspector.

(2) The Planning Board may grant site plan approval only if it finds affirmatively upon substantial evidence that the proposed moving, removing, excavating or depositing of material:

(a) Constitutes the minimum disturbance to the natural contours, trees and ground cover of the property as shall be reasonably necessary to accomplish the proposed improvement of the property.

(b) Is consistent with the good order, peace, health, safety, morals and general welfare of the inhabitants of the Village and of the community.

(c) Is necessary to the reasonable use and development of the subject property.

(d) Is consistent with all other regulations of the Village, including, without limitation, the Village Zoning Code.

(3) Standards for operation. Any site plan approval or building permit issued pursuant to this section shall be subject to the following rules and regulations which are hereby made a part of such permit but need not be included therein:

(a) No such excavation of topsoil shall be made within 10 feet of any property line of the property on which such excavation is made. No such excavation of subsoil shall be made within 20 feet of any such property line.

(b) Where subsoil is to be excavated to a depth in excess of six feet, barricades shall be erected and maintained for the protection of the public consisting of a substantial fence not less than six feet in height completely surrounding the property with no openings except necessary gates for ingress and egress.

(c) In order to prevent flying dust, no open, uncovered trucks shall be used, and the parts of the excavators or conveyors which carry or discharge the material excavated or to be deposited shall be covered. Tarpaulins may be used for such coverings, provided that they accomplish the purpose in the judgment of the inspector of the Village assigned to the operation or, if no inspector is assigned to the operation, in the judgment of the Building Inspector of the Village.

The material excavated or deposited shall be discharged from the excavator or conveyor to the truck or from the truck through an enclosed chute which shall confine therein the dust from such material. Where bulldozers or other mechanical means are used to move or remove topsoil only, dust down or its equal shall be spread.

(d) Where topsoil only is excavated, a minimum of six inches of compacted topsoil shall remain at all places over the area of the excavation.

(e) Where the excavation shall be or shall include subsoil, the excavation shall be immediately refilled with clean, nonburnable fill containing no garbage, refuse, offal or other deleterious or unwholesome matter and topsoil shall be spread and rolled to a depth of six inches over the refill so that such refill and topsoil shall restore the area excavated to the finished grades shown on the map presented with the application for the permit.

(f) After restoration of the topsoil where the subsoil has been excavated or after the removal of topsoil only, the topsoil replaced or the topsoil left, as the case may be, shall be immediately seeded with a grass seed mixture to be approved by the Building Inspector and to be sown at the rate of 25 pounds to the acre, until growth is established. Because such reseeded mixture will not root and grow to accomplish the purposes thereof at all times during the calendar year, permits will be issued or extended for operations to be carried on and completed only between March 1 and June 1 and between July 15 and October 15 of any year.

(g) A permit issued under this subsection F shall expire by limitation 30 days from the date of its issue unless extended by the Planning Board or Building Inspector.

(h) The Planning Board may at any time during the operations of the permittee under the permit place an inspector for the Village on the site where such operations are being carried on, and in the event such an inspector is so assigned to such operations, the permittee shall reimburse the Village for the compensation of such inspector while assigned to such operation to an amount as set forth by resolution of the Board of Trustees from time to time; see Chapter 111, Fees and Chapter A224, Fee Schedule. The inspector may from time to time require that the permittee have test holes dug to see that this section is being complied with.

(i) Failure of the permittee to dig test holes required by the inspector within 24 hours of the request therefor shall constitute automatic cancellation of the permit.

(4) Exceptions. No site plan approval or permit shall be required under this section:

(a) If the amount of material to be moved, removed, excavated or deposited shall be less in aggregate than 25 cubic yards within any twelve-month period, provided that such work shall be incident and necessary to the construction or alteration of a walk, driveway, building or other structure on such land for which there is a duly issued building permit by the Village, or to the landscaping or planting thereof, and shall constitute the minimum disturbance to the natural contour and ground cover of the property as shall be reasonably necessary to accomplish the proposed improvement to the property; or

(b) For any work done by the Village for public purposes; or

(c) For any work required by the Planning Board as a condition for the approval of a subdivision map, unless the Planning Board shall specify that a permit and site plan approval shall be obtained for such work under this section.

G. Affirmative requirements. The Planning Board shall not approve a site plan application unless it finds affirmatively that if carried out it will not:

(1) Be visually offensive or inappropriate by reason of poor quality of design, monotonous similarity, or striking visual discord in relation to other sites or surroundings;

(2) Significantly alter the character, nature, and ambiance of the Village;

(3) Be detrimental to the character of the neighborhood.

(4) Prevent the most appropriate development and utilization of the site or of adjacent land;

(5) Adversely affect the functioning, economic stability, prosperity, health, safety, and general welfare of the entire community.

H. General application requirements. The Planning Board is hereby authorized to establish such rules and regulations as it deems reasonably necessary to carry out the provisions of this section setting forth additional procedures and specifications for the submission of a complete site plan application consistent with the requirements of this section.

I. Public Hearing. The Planning Board shall schedule and conduct a public hearing on each site plan review application within 62 days of the date of the meeting at which an application in compliance with the requirements of this section was officially submitted to and found to be complete by the Planning Board.

J. Notice of Public Hearing.

(1) Public Notice of such hearing shall be given by publication in the Village's official newspaper at least 5 days prior to the date thereof. The Planning Board shall mail the notice of said hearing to the applicant at least 10 days before such hearing.

(2) At least 10 days before such hearing the Planning Board shall mail notices thereof to the Nassau County Planning Commission as required by §239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision I of §239-m of the General Municipal Law.

(3) If any matter hereunder pertains to review of a site plan for property operating

under a Conditional Use Permit, the applicant must adhere to all of the notice requirements for applications for Conditional Use Permits.

(4) The Planning Board may require that the applicant provide additional notice to the adjoining property owners as determined by the Planning Board on a case by case basis and within its sole discretion.

(5) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

K. Decision

(1) Within 62 days after the public hearing portion of the review procedure is closed, the Planning Board shall act to approve, approve with modifications or conditions or disapprove the proposed site plan. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. A copy of the Board's decision shall within five business days be filed in the offices of the Village Clerk and the Building Inspector and a copy thereof mailed to the applicant.

(2) Within 60 days of the date of approval or approval with modifications or conditions, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modifications or conditions required by the Planning Board as a condition of its approval. Upon verification by the Planning Board and the Village Engineer that the Plan complies with the requirements of the Board's approval, the plan shall be endorsed by the Planning Board Chairman and filed with the Village Clerk and the Building Inspector.

L. Extension of original jurisdiction

(1) Until a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration or improvement contained within an approved site plan, the Planning Board shall have continuing jurisdiction to review and act upon a site plan, including any and all amendments to the approved site plan.

(2) The Planning Board shall review and act upon an application for an amendment to an approved site plan in the same manner as the review of an original site plan.

(3) In the event that it is determined that unauthorized changes have been made to an approved site plan, the Planning Board may rescind its prior site plan approval in its entirety or in part.

(4) Within two years after a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration or improvement contained within an approved site plan, the Planning Board may authorize the Village Engineer to perform an inspection of the subject site to confirm that the specifications contained in the approved site plan

have been adhered to on a continuing basis. Regardless of whether inspections are performed or violations exist, the property owner is required to meet and maintain the specifications of the approved site plan unless and until a further application is approved by the Planning Board.

M. Security for performance and expiration

(1) The Planning Board may condition site plan approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond or irrevocable letter of credit in an amount determined after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all specifications of the approved site plan, and if required all public improvements, shall be completed, and to ensure against damage to the infrastructure, including public and private roads and drainage structures.

(2) Any bond in any form as indicated in (1) above shall be in a form and substance acceptable to the Village Attorney, and any such bond shall not be accepted by the Village Clerk unless so approved by the Village Attorney.

(3) Site plan approval shall automatically terminate and expire one year after the resolution granting approval is filed in the office of the Village Clerk, unless a permit has been issued thereon.

(4) If no certificate of occupancy or completion has been issued within two years of issuance of a building permit, such permit shall automatically terminate and expire, and the Village is authorized to use the bond so posted towards the completion of the building permit thereto.

N. Waiver of requirements. Any requirement for site plan approval, approval with modifications or conditions or disapproval may be waived by the Planning Board upon finding that such requirement is not in the interest of the public health, safety or general welfare or is inappropriate to a particular site plan.

O. Fees and Deposits. An application for site plan review shall be accompanied by a fee and deposit in accordance with the Village's Fee Schedule. The payment of any fee or deposit in connection with the application shall be a condition precedent to the acceptance of the application. No building permit shall be issued pursuant to the provisions of this Section until all charges which have been incurred by the Village in accordance with the Village's Fee Schedule and in the sole discretion of the Planning Board are necessary in connection with the review of a site plan are reimbursed to the Village by the applicant.

SECTION 2. Subsection C of Section 218-2, "*Word usage; definitions*" of Chapter 218, "*Zoning*," of the Code of the Village of Brookville is hereby amended to add the following definitions:

BERM-- Any constructed or man-made deposit of clean fill such as sand, gravel or soil or combination thereof, that is in excess of two (2) feet above the natural grade and over twenty (20) feet in length.

DOMESTIC ANIMAL -- Any domesticated sheep, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the Department of Environmental Conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit or pheasant or other bird which is raised in confinement under license from the state Department of Environmental Conservation before release from captivity. Any other animal not specifically included in this definition is excluded from the definition.

EXCAVATION -- The disturbance of the topsoil or the subsoil by other than natural causes, including any grading, regarding or filling or any other moving, removal, excavation, or depositing of material, soil, topsoil, subsoil or fill.

PROPERTY LINE -- The dividing line between the property where it adjoins a street or between the property and an adjoining property.

SUBSOIL -- Consists of the under layer or layers of the ground other than topsoil. It includes sand, gravel, stones, rocks and clay in such subsoil.

TOPSOIL -- Consists of the upper layer or layers of the ground consisting of black loam and organic matter in which layer or layers of pasture grass will readily grow and be sustained, as distinguished from subsoil.

SECTION 3. The following sections of Chapter 218, Article IX, "*Administration and Enforcement*" of the Code of the Village of Brookville are hereby renumbered as follows:

§218-87, entitled "*Board of Appeals*," is renumbered as §218-88;
§218-88, entitled "*Appeals*," is renumbered as §218-89;
§218-89, entitled "*Court review*," is renumbered as §218-90;
§218-90, entitled "*Amendments*," is renumbered as §218-91;
§218-91, entitled "*Short title*," is renumbered as §218-92.

SECTION 4. Chapter 107, "*Excavation*" and Chapter 108, "*Berms*" of the Code of the Village of Brookville are hereby repealed.

SECTION 5. Chapter A224, "Fee Schedule" is hereby amended to change the references to the below section numbers as follows:

§ 107-8H	is changed to	§ 218-87(F)(4)(h)
§ 107-9	is changed to	§ 218-87(M)
§ 107-11	is changed to	§ 218-87(F)
§ 107-12	is changed to	§ 218-87(O)

SECTION 6. Severability. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance

is invalid or unconstitutional, the court's order or 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, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstances, directly involved in the controversy in which such judgment or order shall be render.

SECTION 5. This local law shall take effect immediately upon filing with the Secretary of State.