

**Town of Fowler**  
**St. Lawrence County, New York**

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**Town of Fowler Land Use Site Plan  
Review and Subdivision Local Law**

**Adopted on December 2, 2014**

**TABLE OF CONTENTS**

**PART A: GENERAL PROVISIONS**

**ARTICLE 1 - GENERAL PROVISIONS**

1.1 Enactment and Legislative Authority.....7  
1.2 Title.....7  
1.3 - Use of the Term "Town" ..... 7  
1.4 - Intent and Purpose..... 7  
1.5 - General Applicability ..... 8  
1.6 - Amendments..... 8  
1.7 - Power to Modify or Waive ..... 8  
1.8 – Relationships of this Law to Other Laws and Regulations..... 9  
1.9 - Definitions ..... 10

**PART B: SITE PLAN REVIEW**

**ARTICLE 2 - APPLICABILITY TO SITE PLANS**

2.1 - Land Use Activities Requiring Site Plan Review..... 22  
2.2 - Land Use Activities Exempt from this Law ..... 22  
2.3 - Effect on Existing Uses, Buildings,  
and Structures..... 23  
2.4 - Determination of Applicability..... 25  
2.5 - Sketch Plan Conference ..... 25  
2.6 - Actions Based on Sketch Plan Conference ..... 26

**ARTICLE 3 - PROCEDURE FOR SITE PLAN REVIEW**

3.1 - Application Procedure for Site Plan Approval ..... 27  
3.2 - Site Plan Application Information Requirements..... 27  
3.3 - Written Confirmation of  
    Site Plan Application Filing ..... 29  
3.4 - Determination of Complete Site Plan Application ..... 29  
3.5 - Waiver of Certain Information Requirements..... 30  
3.6 - Public Hearing..... 30  
3.7 - Planning Board Decision..... 31  
3.8 - Extension of Time for Final Decision ..... 32  
3.9 - Appeals Procedure ..... 33  
3.10- Amendments to an Approved Site Plan..... 33  
3.11- Transferability of Site Plan Approval..... 33

**ARTICLE 4 - SITE PLAN REVIEW STANDARDS**

4.1 - General Standards..... 33  
4.2 - Specific Standards ..... 34  
4.3 - Additional Standards for Mobile Home Parks ..... 38  
4.4 - Additional Standards for Junkyards/Salvage Yards..... 39  
4.5 - Additional Standards for Landfills ..... 39  
4.6 - Additional Standards for Telecommunication Towers..... 40  
4.7 - Additional Standards for Agricultural Uses.....43  
4.8 – Regulations and Standards for Outdoor Wood Furnaces.....43  
4.9 – Additional Standards for Outdoor Wood Furnaces.....44  
4.10 – Additional Standards for Fences.....46

**PART C**

**SUBDIVISION REVIEW  
Declaration of Policy**

**ARTICLE 5 - APPLICABILITY TO SUBDIVISIONS**

5.1 - Subdivision Plat Approval Required..... 46  
5.2 - Effect on Existing Parcels and Lots ..... 46

**ARTICLE 6 - APPLICATION FOR SUBDIVISION APPROVAL**

6.1 - General ..... 47  
6.2 – Pre-application Procedure..... 47  
6.3 - Sketch Plan Conference ..... 47  
6.4 - Filing of Subdivision Application ..... 49  
6.5 - Subdivision Application Information Requirements..... 49  
6.6 - Determination of Complete Subdivision Application ..... 50  
6.7 - Waiver of Certain Submission Requirements ..... 51  
6.8 - Agricultural/Woodland Residence Waiver..... 51

**ARTICLE 7 - SUBDIVISION REVIEW PROCEDURE**

7.1 - Preliminary Plat Review ..... 52  
7.2 - Final Plat Review ..... 53

**ARTICLE 8 - ACTION ON FINAL PLAT**

8.1 - Planning Board Determination ..... 54  
8.2 - Approval..... 54  
8.3 - Approval Contingent upon Modifications ..... 55  
8.4 - Approval Subject to Conditions..... 56  
8.5 - Approval of Articles, Subject to Conditions ..... 56  
8.6 - Disapproval of a Final Plat ..... 56  
8.7 - Approval by Operation on Law..... 57  
8.8 - Extension of Time for Determination on Final Plat..... 57  
8.9 - Amendments to an Approved Final Plat ..... 57  
8.10- Transferability of Final Plat Approval ..... 57  
8.11- Approval by State Department of Health..... 58

**ARTICLE 9 - PREPARATION OF PLATS**

9.1 - All Plats ..... 58  
9.2 - Preliminary Plats ..... 59  
9.3 - Final Plats ..... 61  
9.4 - Waiver of Requirements ..... 62

**ARTICLE 10 - SUBDIVISION DESIGN CRITERIA**

10.1 - Road Design ..... 63  
10.2 - Road Construction ..... 65  
10.3 - Utilities..... 65  
10.4 - Lots ..... 66  
10.5 - Unique Physical and Natural Features ..... 67  
10.6 - Site Disturbance and Grading..... 67  
10.7 - Open Space; Parks; Payments in Lieu; Reserved Areas ..... 67  
10.8 - Land Unsuitable for Development as a Subdivision ..... 68

**PART D**

**ADMINISTRATION AND MISCELLANEOUS**

**ARTICLE 11 - PERFORMANCE BONDS AND FEES**

11.1 - Performance Bonds ..... 68  
11.2 - Fees ..... 68

**ARTICLE 12 - ADMINISTRATION**

12.1 - Planning Board ..... 69  
12.2 - Powers and Authorities of Planning Board; Fees ..... 70  
12.3 - Appeals Procedure ..... 71  
12.4 - Enforcement Officer ..... 71  
12.5 - Issuance of Building Permit Conditioned ..... 72  
12.6 - Violations and Enforcement ..... 72

**ARTICLE 13 - MISCELLANEOUS PROVISIONS**

13.1 - Effective Date..... 73  
13.2 - Severability ..... 73  
13.3 - Provision of Notice Deemed to have Occurred..... 73

**APPENDICES**

- Appendix A - Application Form for Site Plan Review
- Appendix B - Application Form for Subdivision Plat Review
- Appendix C - Short Environmental Assessment Form
- Appendix D - SEQRA List of Type I and Type II Actions
- Appendix E - Application for Renewal of Junkyard or Salvage Yard Site Plan Approval Permit
- Appendix F - Town of Fowler Site Plan Approval Permit

**References**

- (Ref 1): Article 10 of the New York State Municipal Home Rule Law**
- (Ref 2 & Ref 3): 274-a and 276 of the New York State Town Law**
- (Ref 4): Article 6, 136 of New York State General Municipal Law**
- (Ref 5): New York State Uniform Fire Prevention and Building Code, 10NYCRR, Chapter 11**
- (Ref 6): Article 12, 239-n of the General Municipal Law of New York State**
- (Ref 8): Article 5-G of New York State General Municipal Law (Ref 7) and 271 of New York State Town Law**

## ARTICLE 1 - GENERAL PROVISIONS

### 1.1 Enactment and Legislative Authority:

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

The Town Board hereby adopts and enacts this Land Use Site Plan Review and Subdivision Local Law (or alternatively, "this Law") pursuant to Article 274-a and 276 of the New York State Town Law and Article 2, Article 10 of the New York State Municipal Home Rule Law for purposes of publication.

### 1.2 Title:

This Local Law shall be known as the "Town of Fowler Land Use Site Plan Review and Subdivision Local Law".

### 1.3 Use of the Term "Town":

The use of the term "Town" in this Law shall be deemed to refer to the Town of Fowler.

### 1.4 Intent and Purpose:

The purposes of this Local Law are to:

- A. Promote the health, safety and general welfare of the Town through implementation and application of a site plan review and approval process and subdivision regulations.
- B. Foster the rational division of land and to promote planned growth and development of residential, commercial recreational, institutional and industrial uses in the Town of Fowler. Sensible division of land and attractive and well-designed development are deemed to be essential for the maintenance and growth of the economy of the Town and for the protection and enhancement of property values. It is further the intent and purpose of this Law to provide for the identification and minimization of the adverse impacts, if any, created by new subdivisions and development on existing neighboring uses and on the overall resources of the Town. It is the intent of the Town Board in enacting the Site Plan Review and Subdivision Local Law to provide for and allow all land use activities that meet the standards set forth herein and not to prohibit any specific proposed land use activity in the Town.

With respect to junkyards (and salvage yards), this Law is intended to substitute for **Article 6, 136 of New York State General Municipal Law (Ref 4)**, which, in the absence of a local law or ordinance to regulate junkyards, would regulate the siting and licensing of junkyards.

### 1.5 General Applicability:

- A. Before undertaking the division of any parcel of property, the owner of the property, or a person authorized in writing to act for such owner, shall, in accordance with the provisions stated herein, apply to the Planning Board for approval of a subdivision plat.
- B. Before commencing any subdivision of land or land use activity that is not otherwise exempt from the provisions of this Law, the owner of the property where the activity is proposed to take place, or a person authorized in writing to act for such owner, shall, in accordance with the provisions stated herein, obtain approval of the subdivision or for a site plan for the property.

### 1.6 Amendments:

- A. The Town Board may on its own motion, on a petition, or on recommendation of the Planning Board, amend these Regulations pursuant to the applicable requirements of law. In the event that the proposed amendments change the district classification of real property within the thresholds set forth in Article 239-m of New York State General Municipal Law, the Town Board must refer such amendments to the St. Lawrence County Planning Board pursuant to Article 1 of this Local Law.
- B. All proposed amendments shall be referred to the Planning Board for a report and a recommendation. The Planning Board shall submit its report within 30 days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to constitute their recommendation for approval of the proposed amendment.
- C. Before any amendment, there shall be a public notice and hearing thereon as provided by law. Notice of the hearing shall be published in a paper of general circulation at least five (5) days prior to the hearing.
- D. After the public hearing, a majority vote of the members of the Town Board shall be required to amend these Regulations.

### 1.7 Power to Modify or Waive:

When, in the opinion of the Planning Board, undue individual hardship may result from the strict compliance with this Law, it may, at its discretion, modify the application of its provisions with regard to the specific matter under consideration so that substantial justice may be done and the public interest secured, provided that such modifications will not have the effect of nullifying the intent and purpose of this Law.



The Planning Board may waive, subject to appropriate conditions, the provision of any or all improvements and requirements, consistent with the public health, safety or general welfare, or which are inappropriate because of the inadequacy or lack of community facilities available to serve the site or subdivision. In the event any improvements and/or requirements are waived, they shall be specifically listed as waived in any site plan approval permit or in any Planning Board resolution approving or conditionally approving a subdivision plat.

#### 1.8 Relationship of this Law to Other Laws and Regulations:

- A. Conflict with Other Laws: Whenever the requirements of this Local Law are at variance with the requirements of any lawfully adopted rules, regulations or ordinances, such as the New York State Uniform Fire Prevention and Building Code, the most restrictive of those imposing the highest standards shall govern.
- B. Requirement for New York State General Municipal Law 239-m and n Referral to County Planning Board. Article 239-m and 239-n requires that certain matters be referred to the St. Lawrence County Planning Board by the Town Board or the Planning Board, as appropriate, and that the referring board shall not take final action until it has received a recommendation within 30 days from the County Planning Board. The following matters shall be referred to the St. Lawrence County Planning Board:
1. Adoption or amendment of a comprehensive plan pursuant to Article 272-a of Town Law;
  2. Adoption or amendment of a zoning ordinance or Local Law;
  3. Issuance of special use permits;
  4. Approval of site plans;
  5. Granting of use and area variances;
  6. Other authorizations that a referring body may issue under the provisions of any zoning ordinance or local law.
  7. Preliminary, final or undeveloped Plats as defined in Article 239-n of GML.

The proposed actions set forth above shall be subject to referral to the County Planning Board if they apply to real property within five hundred feet of the following:

1. The boundary of any city, village or town; or
2. The boundary of any existing or proposed county or state park or any other recreation area; or
3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
4. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

5. The boundary of any farm operation located in an agricultural district, as defined by article Twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

### 1.9 Definitions:

Words and phrases used in this Local Law shall be defined as follows in this Article. Words and phrases that are not defined in this Article shall be defined as in the New York State Uniform Fire Prevention and Building Code. Other zoning definition reference documents may also be used to define terms not listed below. The Planning Board shall make interpretation of terms and definitions. The Planning Board has the discretion to direct the Code Enforcement Officer to utilize generally accepted standards. (OSHA, Uniform Fire Prevention and Building Code, other applicable standards developed by State and Federal agencies such as the DEC, DOT, DOH, FCC, FAA, etc.) in making determinations of nuisance levels.

**Access** - Any point of vehicular or pedestrian ingress and egress to or from a property or lot.

**Accessory Structure or Use** - A secondary structure or use on the same lot or on a contiguous lot under the same ownership that is associated with or is ancillary to the principal use or structure, and that is incidental and subordinate to the principal use or structure.

**Agricultural Use** - A land use involving, on a more or less continuous basis, the growing and harvesting of agricultural crops, the raising of livestock, and the conduct of dairy farming operations, with the intent of selling all or the substantial part of any production for profit, without regard as to whether any actual profit is made. Maple syrup production, greenhouse cultivation, bee-keeping and Christmas tree production are considered to be agriculture. The term includes the necessary ancillary and appurtenant farm structures, to include residences of tenant and seasonal workers, and the storage of equipment.

**Agricultural/Woodland Residence Waiver** - A waiver, subject to the conditions set out in Article 6.8 of this Law, may be granted by the Planning Board to a minor subdivision created for the purpose of establishing a lot to be used for agricultural or woodland residential purposes. The granting of an Agricultural/Woodland Residence Waiver allows the applicant to immediately file a final plat for approval.

**Applicant** - The person or persons, corporation, agency, or other legal entity who submits a site plan or subdivision review application pursuant to this Law.

**Automotive Sales** - A land use activity involving the more or less continuous offering for sale of

- A. Automobiles and light trucks that have been acquired for the purposes of resale; or
- B. Heavy trucks or tractor-trailers; or
- C. Construction and grading equipment.

Without regard as to whether the seller is constituted or licensed as a business entity. Automotive sales shall not be deemed to include the intermittent sale of used automobiles and light trucks that have been previously registered to the seller for the personal use of the seller.

**Automotive Service** - A land use activity involving the more or less continuous servicing or repairing for profit of motor vehicles, without regard as to whether the person servicing or repairing the motor vehicles is constituted or licensed as a business entity.

**Automotive Repair** - see "Automotive Service."

**Bed-and-Breakfast** - An owner-occupied place of lodging that has **ten (10)** or fewer guest rooms for rent and that customarily, although not necessarily, serves one or more meals incidental to lodging.

**Berm** - A mound of earth, generally curvilinear between two points. Berms are used to screen, shield and buffer uses such as parking areas, and to separate incompatible uses. They also serve to control the direction of water flow and act as dams. The design of any specific berm is related to the characteristics of the particular site where used, but, in general, berms are two (2) to six (6) feet high and planted with vegetation.

**Buffer** - An undeveloped area of property, or of a parcel of property, that is specifically intended and designed to separate and thus minimize the effects of a land use activity on contiguous properties. Buffers are generally used in combination with other screening techniques to further promote the desired separation. See "Berm" and "Heavy Vegetative Screening."

**Building** - A structure designed to be used as a place of occupancy, business, storage, or shelter. Use of the term "building" shall be deemed to incorporate the definition of the term "structure."

**Building, Principal** - see "Principal Building."

**Camp** - A building intended for seasonal or intermittent use as a dwelling, generally for recreational purposes.

**Certificate of Submission** - A certification, furnished by the Town Clerk at the request of an applicant, that a final plat was filed on the final plat filing date.

**Change in Use** - The change of use or occupancy of a building from residential, commercial, or industrial use to one of the other uses, or a change in the intensity of the same use.

**Chimney** - Flue or flues that carries off exhaust from any Furnace firebox or burn chamber.

**Commercial Outdoor Storage** - A land use activity involving the storage of items for profit outside of any structure that completely encloses the items and maintains them away from view on a parcel of property pursuant to a lease, contract or other agreement between the owner of the items and the operator of the storage facility, without regard as to whether the storage activity is constituted or licensed as a business entity.

**Commercial Use** - Any land use that involves, as a primary activity, without limitation, the selling of bulk and individual goods, merchandise, products, food, prepared meals, and services of any nature, but excluding any land use that can otherwise be deemed an industrial use.

**Complete Site Plan Application** – A site plan application, as defined herein, that has been determined by the Planning Board to meet the requirements of Article 3.2 of this Law. A complete site plan application is required before the Planning Board can proceed to formally review the proposed site plan.

**Conditional Approval of a Final Plat** - The approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permit prior to the:

- A. Signing of the plat by the officer of the Planning Board duly authorized to do so under Article 8 of this Law; and
- B. Recording of the plat in the Office of the County Clerk in accordance with Article 8 of this Law.

**Curb-cut** - A defined opening, not dependent upon the presence of a curb or other improvements, to provide vehicular access from a public road to a lot or property.

**Determination Date** - The date on which the Planning Board determines that a filed site plan application constitutes a complete site plan application.

**Dismantler** - See "Vehicle Dismantler"

**Driveway** - A road, internal to a subdivision lot, that provides access to the lot from an internal road, or from a public highway.

**Dump** - see "Landfill".

**Dwelling, Single-family** - see "Single-family Dwelling."

**Dwelling, Multi-family** - see "Multi-family Dwelling."

**Dwelling, Two-family** - see "Two-family Dwelling."

**Effective Date** - The date on which this Law is filed with the New York State Secretary of State and the date upon which its provisions are first effective in general.

**Electric Transmission Tower** – Any structure greater than 35 feet tall capable of receiving and/or transmitting electrical power.

**Environmental Assessment Form (EAF)** – A form used to determine whether a project will have significant environmental impacts under the State Environmental Quality Review Act (SEQRA).

**EPA OWHH Phase I Program:** EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase 1 Program administered by the United States Environmental Protection Agency.

**EPA OWHH Phase 1 Program Qualified Model:** An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and has the proper qualifying label and hangtag.

**Excavation Equipment** - Machinery, vehicles, trailers, and other tools and equipment used in the excavation, movement, hauling or transfer of soil, sand, gravel or rock.

**Existing Outdoor Wood Furnace:** An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this local law.

**Facility** - Some combination of a buildings and/or structures, generally, although not always, in connection with the use of the surrounding property.

**Family** - One or more persons living together as a single housekeeping unit and maintaining a common household. The term "family" shall not be deemed to include fraternal or social organizations.

**Fence** – A structure, generally linear between two or more points, that affords some combination and degree of privacy, screening, noise reduction and security.

**Field Entrance** – A point of access onto a field or otherwise undeveloped portion of property that is designed for use by agricultural equipment or construction equipment, or for intermittent use by vehicles or pedestrians, or both, in connection with some event taking place on the field or with the use of the field as a temporary parking area.

**Filing Date** - The date on which a complete site plan or subdivision application is filed for review by an applicant with an official of the Town.

**Final Plat** - A drawing or set of drawings prepared according to the provisions of Article 9 of this Law that shows the final layout and design of a proposed subdivision.

**Final Plat Approval** - The signing of a plat in final form by the officer of the Planning Board duly authorized to do so after adoption of a resolution by the Planning Board granting final approval to the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Office of the County Clerk.

**Final Plat Filing Date** – The date on which the final plat, application, and all supporting information and materials, for a subdivision is filed with the Planning Board.

**"Flag" Lot** – A lot shaped, in general, like a flag on a pole, where a buildable area (the "flag") is entirely landlocked except for a long, narrow strip of land (the "pole") that provides access to a road.

**Forestry Use** - The for-profit operation, on a more or less continuous basis, of timber tracts, tree farms, forest nurseries, including the gathering and harvesting of forest products. See, however, "Sawmilling" operations, that are, for the purpose of this Law, an industrial use rather than a forestry use.

**Generator Number** – The identification number assigned by the U.S. Environmental Protection Agency to certain generators of hazardous waste.

**Gross Building Area** – The area bounded by the total exterior dimensions of a building or structure. Gross building area is expressed in square feet.

**Gross Floor Area** - The area bounded by the total exterior dimensions of a building or structure times the number of floors or stories less the square footage of any porches, balconies, decks and garages. Gross floor area is expressed in square feet.

**Hazardous Waste** - Any waste material defined as a "hazardous waste" in 6NYCRR, Part 37, 371.1(d) - "Identification and Listing of Hazardous Waste."

**Heavy Vegetative Cover** – An area planted with White Pine or Northern White Cedar, or with a species providing comparable screening density at eye level. The spacing of individual trees shall be close enough to limit visibility onto the site screened, and the trees shall be three to four feet (3'-4') tall at the time planted.

**Home Occupation** - any occupation or business or commercial activity that is, or is proposed to be

1. Conducted in whole or part on property where the principal building is a single- or two-family residence; and
2. Results in the production of a product or the provision of a service, or any combination thereof, for financial gain, but without regard as to whether such product or service is actually profitable; and
3. That meets the following additional criteria:
  - a. The total area of all such activity conducted on the premises is limited to less than 49% of the gross floor area of the principal building, but never more than 750 square feet.
  - b. The activity employs no more than the equivalent of one (1) full-time employee other than residents of the premises.
  - c. The activity does not involve the resale of goods or items produced or otherwise purchased for resale off the premises on which the home occupation is conducted, except for such minimal quantities of goods or items as are ancillary and necessary to the sale of goods and items produced on the premises, or to a service not involving the primary sale of merchandise that is provided on the premises.
  - d. If the activity involves the provision of instruction to students or services to clients, the total number of such students or clients on the premises at any one time shall be limited to no more than four (4) persons.
  - e. The activity produces no noise, vibration, and glare or fumes apparent to any person on adjoining or nearby properties or public ways and does not create any electronic interference of any type that can be detected from those locations.
  - f. The activity does not require or create a requirement for on-street parking.
  - g. The activity is not conducted out of doors, or otherwise outside of any enclosed structure, between the hours of 8:30 P.M. and 9:00 A.M.
  - h. The activity is not a hotel, motel, inn or bed-and-breakfast, or a salvage yard or landfill, and does not involve automotive sales, service or repair, the use of excavation equipment, or commercial outdoor storage.

**Hotel** – A specifically designed facility offering lodging or any owner-occupied place of lodging that has six (6) or more guest rooms.

**Improvements** - Any building or structure, or alteration of any physical or natural condition for any reason, that is located or has been undertaken on a parcel of property.

**Industrial Use** - Any use of land that involves:

- A. The mining, milling or other extraction or primary processing of raw materials, minerals or other substances taken from the earth, along with all ancillary operations; or
- B. The basic processing and manufacturing of materials or products predominately from extracted or raw materials; or
- C. The storage of, or manufacturing processes using, flammable or explosive materials; or
- D. Storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions; or
- E. The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution.

**Inn** - A specifically designed facility offering lodging or any owner-occupied place of lodging that has six (6) guest rooms or fewer, but is not a bed-and-breakfast as herein defined, that may, but does not necessarily, include a public tavern and restaurant that may also serve non-guests.

**Internal Road** - A road or network of roads that must be constructed, or is otherwise proposed by the applicant to be constructed, on the parcel to be subdivided for the purpose of providing access to the lots that are to be created.

**Junkyard** - Any place of storage, deposit, or salvaging of machinery or vehicles not in running condition, whether in connection with another business or not, where six or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held. Such term shall include any place of storage, deposit, reclamation or disposal of used parts or waste materials, whether metal, glass, fabric or otherwise, from inoperable machinery or motor vehicles which, taken together, equal in bulk six or more such vehicles. The term junkyard shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for re-melting purposes only. (See also "Salvage Yard", below)

**Landfill** - Any location where waste materials or substances are disposed of by depositing them on or under the earth. Landfills are not permissible in the Town of Fowler.

**"Landlocked" Lot** - A lot that does not have direct access to a road.



**Land Use** - Activities involving land and improvements to land. Land uses are further characterized as being residential, commercial, agricultural or industrial in nature.

**Lead Agency** - The agency or other body that, pursuant to SEQRA, has primary responsibility for conducting a review of proposed land use activities for environmental impacts.

**Livestock** – Domestic animals such as horses, cows, sheep, pigs, chickens, and goats etc. that are raised for home use or for profit that are normally kept or raised on a farm.

**Loading Area** - An off-street space or berth, no smaller than a parking space, used for loading or unloading of vehicles.

**Lodging** – A for profit offering and provision of transient living accommodations to the general public.

**Lot** - A parcel or contiguous area of land that has boundaries that have been established by some legal means, such as a recorded deed or map, and that is recognized as a separate, legal entity for the purposes of transfer of title.

**Manufactured Housing** – Factory manufactured housing bearing the insignia of approval issued by the State of New York, including all forms of such structures.

**Mobile/Manufactured home, Class A** – A new or used “double wide” manufactured housing unit certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and bearing the seal of that Department, and meeting the following compatibility standards:

- A. The minimum width of the mobile/manufactured home at its narrowest point shall be not less than 20 feet erected on site.
- B. The exterior material of the mobile/manufactured home shall be similar to that customarily used in site-built residential structures.
- C. The mobile/manufactured home shall have a sloping roof. The roof shall be constructed with composition shingles or other materials customarily used in site-built residential structures.
- D. The mobile/manufactured home shall be attached to a permanent foundation approved by the Code Enforcement Officer. Permanent foundation shall include a slab on grade.
- E. The exterior covering material of the mobile/manufactured home shall extend to the ground, except that where a permanent perimeter foundation is to be used, the exterior covering material need not extend below the top of the foundation.

**Mobile/Manufactured home, Class B** – A 12 foot or greater width “single wide” mobile/manufactured home certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and bearing the seal of

that Department. Each unit shall be inspected by the Code Enforcement Officer and determined to be in good condition and safe for residential occupancy.

- A. The mobile home shall be attached to a permanent foundation approved by the Code Enforcement Officer. Permanent foundation shall include a slab on grade.
- B. The exterior covering material of the mobile home shall extend to the ground, except that where a permanent perimeter foundation is to be used, the exterior covering material need not extend below the top of the foundation.

**Mobile Home Park** - A residential use in which three (3) or more mobile/manufactured homes (class A and class B) occupied for year-round living are located on property under one operator. Adjoining parcels of land under essentially the same operator shall be considered as a single "mobile home Park" for purposes of this Law.

**Modular Home** – A dwelling unit constructed on site in accordance with state building codes and composed of components substantially assembled in a manufacturing facility and transported to a building site for final assembly on a permanent foundation.

**Motel** - see "Hotel."

**Multi-family Dwelling** - A building or portion of a building designed for year-round occupancy, containing separate dwelling units for three or more families living independent of one another, other than hotels, motels, inns and bed-and-breakfasts.

**Natural Wood** - Wood, which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

**New Outdoor Wood Furnace** - An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this local law.

**Open Meetings Law** - The New York State Public Officers Law, Article 7. The Open Meetings Law sets out the requirements for public notice, access and participation in the proceedings of public bodies.

**Outdoor Wood Furnace** - Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood-fired Hydronic Heater.

**Parking Space** – An area reserved for the parking of a motor vehicle that measures a minimum of nine (9) feet in width and eighteen (18) feet in length, not including any space required for maneuvering aisles and vehicle circulation.

**Plat** – A map representing a tract of land showing the boundaries and location of individual lots and streets.

**Plat, Preliminary** – A preliminary map indicating the proposed layout of a subdivision which is submitted to the Planning Board for consideration and preliminary approval.

**Plat, Final** – A final map drawn by a licensed engineer or land surveyor showing a proposed subdivision, including all detailed information required by New York State and these regulations, which submitted to the Planning Board and, if approved, filed with the County Clerk.

**Principal Building** - The building that houses the principal use on a parcel of land.

**Principal Use** - The use of property, or of a parcel of property, that a reasonable person would deem to be the primary use.

**Property** – A contiguous area of land, consisting of two (2) or more parcels, that is under the same ownership. Use of the term "property" as a general term shall be deemed to mean a single parcel where such construction would be appropriate.

**Property Line** - The legal boundaries of a parcel of property whether drawn on a plat or recorded map or expressed as metes and bounds in a deed.

**Public Road** – A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, that affords the principal means of access to abutting parcels of property.

**Residential Lot** – A parcel of property that is created, or proposed to be created, for the specific purpose of being used or sold as a building site for a residential or commercial use.

**Right-of-Way** – A defined area of land that provides for parking, road construction, maintenance, drainage, improvement and/or widening.

**Runoff** - Surface water that flows onto, within, and/or off of the site area.

**Salvage Yard** - An establishment having facilities for purchasing, storing, collecting or processing wastepaper, rags, iron, steel or nonferrous scrap and whose principal produce is recycled paper, rags, or scrap iron, steel or other nonferrous scrap for sale for re-melting purposes only. A salvage yard is not considered a junkyard unless the equivalent in parts of six or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are present, as described in the definition of "Junkyard", above.

**Sawmilling** - An industrial land use involving the operation of saws and other ancillary equipment for the purpose of converting cut timber into rough or finished lumber, and including all associated storage lots, areas and structures, truck delivery and transport facilities, and structures and equipment used for the handling, storage and disposal of waste wood, brush, bark, leaves and sawdust.

**Screening** - Vegetation, fencing, or earthen materials used to block visibility onto a parcel of property. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses. See "Berm," "Fence" and "Heavy Vegetative Screening."

**Seasonally Maintained Public Road** - Any public road that has been posted or mapped by the maintaining local government as being only maintained during certain seasons or months of the year.

**SEQRA** - see "State Environmental Quality Review Act."

**Set-back** - Any required or minimum distance as measured from front, side and rear lot lines to a building or structure located on the property.

**Short Environmental Assessment Form** - see "Environmental Assessment Form."

**Single-family Dwelling** – A detached building designed for occupancy by one family, other than a mobile/manufactured home (class A and class B), recreational vehicle, camp or temporary structure.

**Sign Regulation**– Local laws that regulate the erection and maintenance of signs and outdoor advertising with respect to their size, color, appearance, movement, and illumination, and their placement on structures or their location on the ground.

**Site Plan Application** - An application for site plan approval that has been received by the Planning Board, but has not yet been determined by the Planning Board to constitute a complete site plan application.

**Sketch Plan** - An informal map of a proposed site plan that, at a minimum, is prepared with sufficient accuracy and detail to be used by the Planning Board in discussing the proposal with the applicant.

**Sketch Plan Conference** - An informal Planning Board review of a proposed project with the applicant, conducted at the request of the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what specific submission requirements will be established and what issues may be raised by a proposed project prior to formal submission of the site plan application.

**Solid Waste** - Any waste material defined as "Solid Waste" in 6NYCRR, Part 360, 360-1.2(a) and "recyclables" as defined by the St. Lawrence County Solid Waste Disposal Authority.

**Springhouse** - A structure that covers, for the purpose of enclosing and protecting, a spring used as a water supply.

**State Environmental Quality Review Act (SEQRA)** - A State law, at 6NYCRR, Part 617, that requires the consideration of environmental factors in the planning, review and decision-making processes of government agencies by establishing a review process.

**Structure** - Anything constructed or built, or a building of any kind, that requires location on the ground or is attached to something having a location on the ground. The term "structure" is deemed to include, without limitation, mobile/manufactured homes (class A and class B), fences, commercial and private radio, television, and other utility communication towers and dishes, and freestanding signs and light standards.

**Subdivision** - Any division of a parcel of property into **three (3)** or more lots **within any three (3) year period**, or any division of a parcel of property where the construction of an internal road is required pursuant to any provision of this Law or is otherwise proposed by the applicant.

**Telecommunication Tower** - Any structure greater than thirty-five (35) feet in height, which is capable of receiving and/or transmitting electromagnetic signals (for the purpose of communication), thus excluding TV and radio antennas utilized for reception at private residences. A Telecommunication Tower is a principal use.

**Temporary Structure** - Any structure that will not be in use for more than ninety (90) days and that will be taken down or dismantled on termination of the use.

**Town Board** - The Town Board of the Town of Fowler

**Town Clerk** - The Town Clerk of the Town of Fowler.

**Tract** - see "Parcel."

**Two-family Dwelling** - A detached building designed for occupancy by two families, living independently of one another, other than a mobile/manufactured home (class A and class B), recreational vehicle, camp, or temporary structure.

**Use, Principal** - see "Principal Use."

**Vehicle Dismantler** - Any person who is engaged in the business of acquiring motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap. The term "vehicle dismantler" shall be deemed to include any person engaged in the business of acquiring damaged vehicles for the purpose of repairing and reselling them.

**Windmill** - A machine that converts the energy of wind into rotational energy by means of vanes called sails or blades. Modern windmills may take the form of wind turbines used to generate electricity, or wind pumps used to pump water, either for land drainage or to extract groundwater.

## ARTICLE II - APPLICABILITY TO SITE PLANS

### 2.1 - Land Use Activities Requiring Site Plan Review:

All proposed activities that involve:

- a. An expansion of an existing principal or accessory use of property; or
- b. The addition of a new principal or accessory use of property; or
- c. A change in the principal use of property to another principal use; and

Require the issuance of a building permit or certificate of occupancy shall be subject to site plan review under this Law, except for the activities specifically exempted in Article 2.2 of this Law.

### 2.2 - Land Use Activities Exempt from this Law:

The following land use activities are exempt from the requirements of this Law and may be conducted without special review and approval by the Planning Board:

1. The continuation, without change, of any land use activity holding a valid building permit or in operation as of the effective date of this Law.
2. The construction of any new single- or two-family dwelling or any addition thereto, so long as the combined dwelling and addition will continue to be used as a single- or two-family dwelling.
3. The siting of single wide or double wide mobile/manufactured homes (class A or class B) on an individual lot.

4. Agricultural operations including seasonal roadside sales of home-grown produce, or construction of a structure or improvement used, maintained or operated in connection with an agricultural use, but specifically excluding permanent farm stand sales operations.
5. Forestry uses.
6. Accessory structures less than 600 square feet in size, except those associated with telecommunication towers, and/or electrical transmission towers.
7. Any temporary use that occurs less than twelve (12) days per calendar year and does not involve the construction of a permanent structure, facility or improvement.
8. The construction or making of exterior alterations of an existing non-residential structure that does not increase the gross floor area of the existing structure by more than 5%.

### 2.3 - Effect on Existing Uses, Buildings and Structures:

1. Existing Buildings and Structures Exempt. This Law does not apply to any use, building or structure that is lawfully in existence as of the effective date of this Law so long as there is no change, alteration, modification, expansion or addition to the use, building or structure, with the exception of a junkyard or a salvage yard, which shall comply with the provisions set forth in Articles 3 and 4.
2. Future Diminution of Use also Exempt. The reduction or lessening of the use, size or extent of any building or structure that is otherwise exempt from this Law under any provision of this Article II, including the demolishing, razing or removal of the building or structure or any portion thereof shall be also exempt from the provisions of this Law.
3. Complete Destruction or Removal. On the complete destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law arising under this Article 2 shall automatically terminate, without requirement of notice to the owner. Complete destruction or removal shall be deemed to have occurred when more than 75% of the gross square footage of the building or structure involved is affected. Any replacement or reconstruction of a completely destroyed building or structure shall be subject to site plan review under this Law, unless one of the exemptions in Article 2.2 of this Law applies.
4. Partial Destruction or Removal. Following the partial destruction or removal of any building or structure, whether intentional or otherwise, any exemption from this Law arising under this Article 2 that applies to the building or structure shall continue as to the portions of the building or structure that are not affected. Partial destruction or removal shall be deemed to be any destruction or removal that is not complete destruction or removal. Any replacement or reconstruction of a partially destroyed building or structure

shall also be exempt from the provisions of this Law, provided that the following criteria are met:

1) The Code Enforcement Officer shall have been notified of the partial destruction or removal within ninety (90) days of the date on which the building or structure was partially destroyed or removed.

The Code Enforcement Officer shall inspect the building or structure, determine the extent of the destruction or removal, and notify the owner of the property and the Planning Board as to whether the destruction or removal was partial or complete. In the event the destruction or removal is found by the Code Enforcement Officer to be partial, the Planning Board shall so notify the owner of the property by letter. The notification shall include information about the right to replace or reconstruct the building or structure in a manner exempt from this Law and shall state the date by which replacement or reconstruction must be commenced.

2) The replacement or reconstruction shall be commenced within 180 days of the date on which the building or structure was partially destroyed or removed and shall be pursued diligently to completion.

3) the replacement or reconstruction shall be the reasonable equivalent of the portion of the building or structure that was destroyed or removed, and shall not constitute, comprise or incorporate a change, modification, alteration, expansion or addition to the building or structure, except for such changes, modifications and alterations that are required to connect, upgrade or modernize utilities, maintain the building or structure in accordance with applicable building regulations, or are otherwise needed to provide for the safety of occupants and users of the building or structure and the general public.

5. Automatic Termination of Exemption. Any illegal or unlawful change in the use or characteristics of a property, parcel, building or structure, or any operation of a property, parcel, building or structure in a manner that is illegal or unlawful, shall have the effect of automatically terminating any exemption applying to property, parcel, building or structure that has arisen under any provision of this Article 2, without requirement of notice to the owner. Any act in violation of any provision of this Law shall likewise automatically terminate any such exemption.

The Planning Board, upon making a determination that an exemption has been terminated under this provision, may require, upon provision of notice to the owner of the property, the submission of a site plan pursuant to this Law for all improvements on the property as they then exist or are then in operation, which, in such event, shall be submitted within thirty (30) days of the notice. This provision shall not be deemed to restrict or limit any other right of action of the Planning Board, or of the Town Board, or of any other County, State



or Federal official, against the owner of the property with regard to the act or condition that gave rise to the termination of the exemption.

Failure by the Planning Board to act under this provision shall not be deemed to limit any future right of the Planning Board to act with regard to the same, or any other, such act or condition.

#### 2.4 - Determination of Applicability:

Any person uncertain as to whether a given land use activity requires site plan review under this Law may request and receive a non-binding determination of applicability from the Planning Board. The request to the Planning Board shall be in writing and shall state the nature and extent of the proposed land use, and shall provide sufficient additional information needed to allow the Planning Board to make its determination.

#### 2.5 - Sketch Plan Conference:

1. General. A sketch plan conference between the applicant and the Planning Board is encouraged to discuss in general terms the development proposal, determine the information to be required in the site plan application, assist the applicant in complying with the requirements of the State Environmental Quality Review Act (SEQRA) process and identify potential problems and concerns with the project.

2. Scheduling. The sketch plan conference shall be scheduled and conducted by the Planning Board based on a request by the applicant, at a place and time established by the Planning Board and acceptable to the applicant. In scheduling and conducting the sketch plan conference, the Planning Board must observe the requirements for public notice, access and participation set out in the Open Meetings Law.

3. Conduct. At the sketch plan conference, the applicant shall provide, at a minimum, a description of the proposed land use activity and a sketch plan of the intended improvements and changes. This sketch plan shall be sufficient to show the location of the building site and its relationship to the surrounding area and properties. (Note: the Town Assessor or the St. Lawrence County Real Property Tax Office has parcel maps that can usually be copied for a small fee that can be used as a base map for this purpose).

The applicant is encouraged to provide as much additional information about the project during the sketch plan conference as is possible, using the requirements for a complete application set out in 3.2 of this Law as a guide.

## 2.6 - Actions Based on Sketch Plan Conference:

Upon review of the sketch plan information with the applicant, the Planning Board shall take one of the following actions:

1. Not Proceed with the Review. Advise the applicant that the Planning Board will not proceed with its review of the site plan proposal because of one or both of the following:

1) There are, in the view of the Planning Board, one or more problems with the applicant's proposed site plan. In such event, the Planning Board may recommend a manner in which the problems could be addressed.

2) There is additional information required under Article 3.3 of this Law that must be submitted to constitute a complete application. Consistent with Article 3.5 of this Law, the Planning Board has the ability, by majority vote, to waive any one or more of the requirements that are not deemed necessary and inform the applicant that such a waiver has been granted.

The applicant shall be informed of the proper procedures for filing the application, and may be granted, at the discretion of the Planning Board, one additional sketch plan conference to present an amended or supplemented proposal. If an applicant is advised that the Planning Board will not proceed with the review at the conclusion of the sketch plan conference, such notice to the applicant may be furnished informally by the Planning Board, with written confirmation to follow within five (5) days. In the event that the Planning Board chooses to so advise the applicant at a time following conclusion of the sketch plan conference that the review will not proceed, the notification shall be in writing.

In the event the Planning Board decides not to proceed with the review, the applicant will be informed of the reason or reasons for the decision.

2. Proceed with the Review. Determine, by majority vote, that the information submitted is adequate to evaluate the proposal in terms of the review standards set out in Article 5 of this Law, and constitutes a complete site plan application, as defined in 3.4 of this Law. Submission requirements stated under 3.2 of this Law that are to be waived prior to making such a determination shall be waived in the manner and according to the standards described under 3.5 of this Law.

In the event that a determination is made to deem the applicant's proposal a complete site plan application as a result of the sketch plan conference, the date of the sketch plan conference shall become the determination date provided for under Article 3.4 of this Law. The Planning Board shall furnish the applicant with the letter required pursuant to this Law informing the applicant of its determination within five (5) days of the sketch plan conference date.

## **ARTICLE III - PROCEDURE FOR SITE PLAN REVIEW**

### **3.1 - Application Procedure for Site Plan Approval**

To apply for site plan approval, an applicant shall complete the "Application for Site Plan Review" form attached to this Law at Appendix "A", or its successor form, and prepare all other information listed at Article 3.2 of this Law (the application form and other information hereinafter collectively are termed the "Site Plan Application"). The site plan application shall then be filed, with respect to developments or improvements located in the Town with the Town Clerk or Enforcement Officer. The date on which the site plan application is filed with a municipal officer shall be termed the "filing date." The municipal officer who receives the site plan application shall forward it to the Planning Board within five (5) days of the filing date and notify the Planning Board of the filing date.

### **3.2 - Site Plan Application Information Requirements**

The following information shall be required in addition to the completion of the "Application for Site Plan Review" form. A completed site plan application shall include all listed items unless submission of one or more of the items is specifically waived by the Planning Board.

1. Initiation of SEQRA Review. The applicant shall prepare and file with the site plan application the New York State Short Environmental Assessment form, a copy of which is attached to this Law at Appendix "C", or its successor form, to allow the Planning Board to determine the applicability of the State Environmental Quality Review Act (SEQRA). For "Type I" SEQRA actions, which are those that may have a significant effect on the environment, and all other actions not listed as "Type II" SEQRA actions ("Unlisted Actions"), the Planning Board shall then initiate the review process required by SEQRA. Type II actions are not subject to review under SEQRA. A list of "Type I" and "Type II" actions is at Appendix "D" of this Law. As this list may be amended after the enactment of this Law, it should not be deemed authoritative and current information as of the date of the filing of the site plan application must be obtained. \* To obtain the most current form, please go to the DEC website: <http://www.dec.ny.gov/permits/6191.html>
2. Affidavit or Written Authorization of the Property Owner. The person filing the site plan application normally shall be the owner of the property on which the land use activity is proposed. For non-owner applicants, a written permission of the owner that references the proposed land use shall be filed.

2. Existing Features and Location Map. This map, at a minimum, shall
- Be drawn to scale with a north arrow and clearly show boundaries and dimensions of the parcel, adjacent properties and their uses, roads, and any easements or other rights-of-way located on the property.
  - The map shall also show, where present, existing man-made and natural features of the site, including buildings and structures, points of access, signs, free-standing lights, land uses not housed in a building or structure, roads, steep slopes, wetlands, flood and erosion prone areas, wells, septic tanks and leach fields, wooded areas greater than 1/4 acre in size and individual trees outside wooded areas with a trunk diameter of 24" and over, and utility lines and rights of way (Note: the Town Assessor or the St. Lawrence County Real Property Tax Office have parcel maps that can usually be copied for a small fee and used as a base map on which to display this information).

4. Development Plan Map. A development plan shall be prepared for the land use activity proposed, either as additional information noted on the Existing Features and Location Map or on a separate map prepared to the same scale. If the Existing Features and Location Map are used for this purpose, it shall clearly be identified as doing so. The Development Plan Map shall show the location, to include notation of distance in feet from at least two lot lines that are more or less perpendicular from one another, of the following information:

- a. Proposed buildings and structures, any proposed additions to existing structures, and other proposed uses not involving any change to a building or structure. Buildings and structures, and any additions, shall be annotated with exterior dimensions, to include height.
- b. Proposed access points to the site, annotated as to whether for vehicular or pedestrian use, or both, and specifying type of construction and width.
- c. Proposed internal driveways and other on-site circulation, and parking and loading areas, specifying type of construction and dimensions.
- d. Proposed new water supply and wastewater disposal systems, and any expansion of existing systems. In the event that the Existing Features and Location Map is not used as the Development Plan Map, the Development Plan Map will be annotated with the location of any existing waterlines, wells, streams, watercourses, sewer lines, septic tanks and leach fields. The distance of the proposed water supply and wastewater disposal system improvements from each of the above features, as applicable, shall be noted.
- e. Proposed outdoor storage and display areas.

f. Proposed solid waste and hazardous waste collection, storage and staging areas, including the location of waste storage containers.

g. Proposed signs, specifying height from the ground to the base and the top of the sign, dimensions and means of illumination.

h. Proposed outdoor lighting should be Dark Sky compliant, specifying height from the ground to the top of the light or light enclosure, type (whether wall or ground mounted, or on a freestanding standard or pole), bulb type (mercury or sodium vapor, incandescent, etc.), bulb style (floodlight, spotlight, etc.), hours of operation, the area that the light will illuminate, and any other special characteristics.

\* For additional information on Dark Sky compliant outdoor lighting go to the website: <http://darksky.org/outdoorlighting>

i. Proposed changes in the existing surface drainage pattern.

The preceding list should be used by the applicant in conjunction with the requirements set out in Article 5 of this Law to insure inclusion of sufficient information on the Development Plan Map.

### 3.3 - Written Confirmation of Site Plan Application Filing

The Town of Fowler Code Enforcement Officer shall, within fourteen (14) days of the filing date of a site plan application, cause written confirmation to be sent to the applicant of the receipt of the site plan application for review by the Planning Board. The Code Enforcement Officer shall review the application for completeness and, when complete, shall forward the complete application to the Town Planning Board for review. The letter, when appropriate, may also note additional materials or information needed from the applicant in order to complete the site plan application.

### 3.4 - Determination of Complete Site Plan Application

The Planning Board shall, within thirty (30) days of receipt of the complete application or within five (5) days following the receipt by the Planning Board of notice of completion of any review required under SEQRA for which the Planning Board is not the lead agency, whichever is later, begin the review process, or request additional information as may be required under SEQRA.

1. Complete Site Plan Applications. A site plan application deemed by the Planning Board to be complete shall hereinafter be termed a "Complete Site Plan Application." Following the determination that a complete site plan application has been received, the Planning Board shall provide the applicant with a letter noting the determination, stating the determination date and informing the applicant that a final determination will be made within sixty two (62) days of the determination date or, if a public hearing is to be held pursuant to Article 4.1 of this Law, within forty-five (45) days of the date on which the public hearing is held. The applicant shall also be informed in this letter of the determination by the Planning Board that a public hearing will or will not be required.

2. Incomplete Site Plan Applications. Incomplete site plan applications shall be returned to the applicant by the Planning Board within five (5) days of the determination date and shall be accompanied by a letter that identifies the additional information that must be filed by the applicant in order to proceed with the review.

### 3.5 - Waiver of Certain Submission Requirements

In certain instances where a site plan application would otherwise be returned to the applicant as incomplete, and when the Code Enforcement Officer determines the full compliance is met.

### 3.6 - Public Hearing

1. When Mandatory. For any site plan application involving construction of or improvements or changes to any of the following land use activities, a public hearing on the application is mandatory and shall be scheduled by the Planning Board.

A. Mobile Home Parks.

b. Multi-family dwellings

c. Junkyards and Salvage Yards.

d. Industrial and Commercial uses.

e. Facilities involving or used for the transfer or disposal of solid waste, including landfills.

f. Facilities generating sufficient quantities of hazardous waste to require issuance of a "Generator Number" from the U.S. Environmental Protection Agency.

g. Facilities involving or used for the transport or disposal of hazardous waste in any quantity.

h. Windmills for Residential or Commercial Use.

i. Livestock residing in a Residential Area.

2. When Optional. For all other applications, the Planning Board may, at its discretion, determine, by a majority vote, that a public hearing on the proposed site plan shall be held.

3. Procedure. The public hearing shall be held within sixty-two (62) days of the determination date and shall be advertised in a newspaper that has general circulation in the Town at least five (5) days before the public hearing, except as noted below in this sub Article. Following such a public hearing, the Planning Board shall have sixty-two (62) days from the date the public hearing is held (the "Public Hearing Date") to render a final decision. The applicant shall receive notice of the public hearing.

### 3.7 - Planning Board Decision

Within sixty-two (62) days of the determination date or, if a public hearing is held, within sixty-two (62) days of the public hearing date, the Planning Board shall render a decision to approve, approve with modifications or conditions, or disapprove the site plan. All decisions shall be by majority vote of the full membership of the Board.

1. Approval. The Planning Board, upon a decision to approve a proposed site plan, shall file the complete site plan application documents and a written statement of approval signed by the Chair of the Planning Board, with the Town Clerk within 5 business days of the determination date (Appendix F). Copies of the written statement of approval (permit) shall be provided to the applicant and the Enforcement Officer.

2. Approval with Modifications or Conditions. The Planning Board may approve the site plan subject to

1) Specific modifications made by the applicant to the site plan; or

2) Specific conditions established by the Planning Board to be met by the applicant,

Or both. Copies of the complete site plan application documents and a written statement of approval (site plan approval permit) containing the modifications and conditions required by the Planning Board, signed by the Chair of the Planning Board, shall be filed with the Town Clerk within 5 days of the determination date. Copies of the written statement of approval containing the modifications and conditions shall be provided to the applicant and the Enforcement Officer.

3. Disapproval - The Planning Board, upon disapproval of an applicant's site plan following a review of the proposal against the standards set out in Article 5 of this Law, shall file with the Town Clerk a written statement of the decision containing the reasons for the disapproval signed by the Chair of the Planning Board. Copies of the written statement of disapproval shall be provided to the applicant and the Enforcement Officer.

4. Annual Permits - A Site Plan Approval Permit shall be issued on a one-time basis, unless

- (1) a new permit is issued following revocation of the original permit by the Planning Board for non-compliance with stipulated conditions pursuant to this Article and Article 12; or
- (2) the permit is for a junkyard or salvage yard, in which cases the permit shall be issued annually, with an expiration date of December 31; or
- (3) The permit is for a telecommunication tower and/or electric telecommunication tower, in which cases the permit shall be issued annually, with an expiration date of December 31<sup>st</sup>.

5. Junkyard and Salvage Yard Permits - The annual permit fee shall be set by the Planning Board and be paid at the time the site plan application is made and annually thereafter in the event of a renewal. A renewal application shall be made using the approved form found in Appendix E and, prior to the issuance of a permit renewal, shall be reviewed by the Planning Board for compliance with site plan approval permit conditions previously imposed in accordance with this law. In the case of a junkyard or salvage yard that is not proposing to increase the extent of its operations, the Planning Board shall render its decision to approve or deny the permit renewal within sixty-two (62) days of receiving the permit renewal application form. In the case of a proposed increase in the extent of operations, application shall be made pursuant to the informational requirements of this Article, (3.1-3.5) and Planning Board review and action shall be made pursuant to the time frames and requirements for a public hearing in this Article, (3.6-3.8). Further, the Code Enforcement Officer is authorized to request a proposal for expansion.

### 3.8 - Extension of Time for Final Decision

The time period during which the Planning Board must render its decision can be extended by the mutual consent of the applicant and the Planning Board.



### 3.9 - Appeals Procedure

Any person aggrieved by any decision of the Planning Board or by the action of an officer of the Town with respect to the provisions of this Law may apply to the Supreme Court for a review of the decision by a proceeding brought under Article 78 of the Civil Practice Laws and Rules.

### 3.10 - Amendments to an Approved Site Plan

Submission and review of any amendment to an approved site plan shall be acted upon in the same manner as the original application.

### 3.11 - Transferability of Site Plan Approval

A site plan approval permit shall be transferable upon the sale or transfer of the property that is to be developed on the provision of notice to the Planning Board by the new owner within thirty (30) days of the date the property is sold. The notice shall include the following:

- 1) The new owner shall affirm the intention to construct all improvements remaining to be constructed on the property in accordance with the approved site plan.
- 2) The new owner shall affirm compliance with all permit conditions established by the Planning Board in connection with the approval of the site plan.

The Planning Board may revoke upon notice to the new owner, the site plan approval permit with regard to any improvements not constructed in the event that the new owner does not strictly comply with the provisions of this Article.

## **ARTICLE 4 - SITE PLAN REVIEW STANDARDS**

### 4.1 - General Standards

1. Protection of Health and Safety. Development proposed on a site plan shall be of such character that, following completion of the proposed improvements, the property upon which the improvements are located does not present any danger arising from conditions detrimental to health or safety, or peril from fire, flood, or other causes, to persons occupying or using the property or to the general public.

2. Preservation of Town Character. The proposed development shall be visually compatible with the character of the Town with the extent of compatibility necessary to be determined by the Planning Board following consideration of all relevant information. The economic impact on the applicant of achieving such compatibility shall be among the factors considered by the Planning Board in making the determination.

3. Separation of Incompatible Uses or Activities. Heavy vegetative screening, combined, as appropriate, with other means of buffering, such as the use of earth berms, shall separate:

1) Commercial and industrial uses from residential properties; and

2) other proposed uses from any adjacent existing uses where the degree of conflict is so great or so apparent as to allow a reasonable person to conclude that the proposed use would have a detrimental effect on any person's enjoyment, for any purpose, of the existing use.

#### 4.2 - Specific Standards

The review of the complete site plan application by the Planning Board may include, as appropriate, consideration and application of the following:

1. Legal. Will the proposed development be in conformance with all provisions of this Law and other applicable Town of Fowler, County, State and Federal laws? Has the applicant applied for or complied with all required permits?

2. Traffic Movement and Safety. Will the proposed development provide for safe, convenient and efficient movement of traffic on the site? Will it affect adjoining roads, driveways and properties? Has the applicant obtained any necessary permits to create curb-cuts and work in the right-of-way from the State, County or Town highway departments? Will access to the site from public roads and on-site circulation be well-designed, safe and in conformance with the following?

a. The site must be accessible during all months of the year if used year-round. If only seasonal use is proposed, access shall be possible during the months of use.

b. There may be no more than two (2) vehicular access points (excluding field entrances).

c. Highway sight distances from vehicular access points must be adequate to provide for safe ingress and egress of vehicles.

d. Development of the site must not create or increase any traffic hazard, whether by limiting sight distance, reducing effectiveness of vehicular circulation on adjacent roads, or through creation of some other condition that affects safe operation of motor vehicles on public roads.

3. Emergency Access. The on-site driveway grade and width must be adequate and safe for emergency and service vehicles during all seasons. In cases where sites have frontage on more than one road, the principal point of access must be from the more secondary road whenever feasible. However, access suitable for emergency vehicles must be provided, where possible, from a road that is maintained on a year-round basis as opposed to from a road that is maintained only seasonally.

4. Parking and Loading. Adequate off-street parking and loading spaces shall be provided for the use of occupants, employees, clients and customers so that parking does not obstruct the safe flow of traffic on public roads. Parking and loading areas shall be adequately screened or fenced from existing residences and State-designated tourism routes. Design of parking areas shall be accomplished so as not to force vehicles to back onto a public roadway, block access to the site, or create hazards for pedestrians, and shall avoid dispersion of vehicles about the site to the maximum extent possible. Interior driveways shall be adequate to provide safe accessibility to all off-street parking spaces required. The number of spaces provided shall be in accordance with the following.

- a. Residential use – one and a half (1.5) to two (2) parking spaces for each dwelling unit.
- b. Retail establishment or office - one (1) parking space for every 300 square feet of gross floor area.
- c. Church, meeting hall, funeral home, or other place of public assembly - one (1) parking space for every eight (8) seats provided based on maximum seating capacity.
- d. Restaurant - one (1) parking space for each five (5) seats.
- e. Hotel, motel, inn, or bed-and-breakfast - one (1) parking space for each guest room.
- f. Nursing home - one (1) parking space for each five (5) patients.
- g. Industrial facility - one (1) parking space for each employee per shift.
- h. Other uses - parking spaces adequate to meet the expected maximum demand based on requirements established for similar uses.

5. Town Services. Will the proposed development place unreasonable or extraordinary demands on Town or voluntary services and facilities, to include, without limitation, fire protection, emergency medical services upgrading, maintenance and snow plowing of public roads, recreational facilities, water supplies and sewage/waste disposal systems?

6. Drainage. Will the proposed development provide for storm water and drainage on the site such that runoff will not enter, cross or undermine public roads, lead to ponding, or excessive erosion, or cause nuisance conditions for neighbors?

7. Water and Sewer/Waste Disposal. Will the site accommodate the on-site wastewater treatment and water supply needs of the development? Standards are as follow:

a. Pollution control methods for sewage disposal shall comply with the New York State Uniform Fire Prevention and Building Code, 10NYCRR, Chapter 11 (**Ref 5**). This code requires an appraisal of soil conditions to install a septic tank and leach field system by conducting a soil percolation test to properly locate and size the leach field. The following minimum separation distances for locating septic tanks and leach fields shall be satisfied:

- 1) 100 feet from any source of water supply; and
- 2) 100 feet from any stream or watercourse; and
- 3) twenty feet (20') from any foundation wall; and
- 3) fifteen feet (15') from any property line.

The location of septic tanks and leach fields shall be clearly identified on the Development Plan Map with distances from lot lines and wells. Proposals that may lead to increased demands on sewage disposal facilities shall demonstrate that such systems are properly functioning and sized to accommodate increased demands.

b. Water supply for public or semi-public uses shall be from a properly grouted, drilled well. Potable water for private uses may come from other sources.

8. Off-site Impacts. Will the design of the proposed use create conditions that adversely affect nearby properties and public areas? Review standards include at least the following:

- a. No aspect of the development shall unreasonably block sunlight and air circulation from neighboring properties.
- b. The location, direction, power and time of use for any proposed lighting shall be designed to protect nearby properties from unreasonable disturbance.

c. Nearby properties shall be protected against nuisances created by the proposed improvements, to include, without limitation, nuisances caused by noise, smoke, trash, garbage, debris, vibration, fumes, dust, odors or glare.

d. On-site materials storage, refuse, and salvage materials shall be screened or fenced from view from public roads and existing residences.

9. Waste Management. Will the site design provide for the safe and sanitary temporary storage of solid and hazardous waste? Waste storage and loading areas and waste containers shall be screened from public view and from view from adjacent properties. All storage and handling of solid and hazardous waste shall demonstrate compliance with applicable Town, County, State and Federal laws, and shall demonstrate application for and compliance with all required permits.

10. Storage of Petroleum Products. If the proposed use involves the bulk storage of petroleum products, will it demonstrate compliance with applicable Town of Fowler, County, State and Federal laws, and demonstrate application for and compliance with all required permits?

11. Underground Storage Tanks. If the proposed use will involve the installation or use of underground storage tanks, does it demonstrate compliance with applicable Town of Fowler, County, State and Federal laws, and demonstrate application for and compliance with all required permits, satisfactory leakage or tightness testing results for existing tanks, and satisfaction of financial responsibility requirements?

12. Environmental Considerations. Will the proposed development in general avoid areas where the following conditions are present?

- a. slopes greater than 15%.
- b. areas of seasonal or permanent high groundwater.
- c. flood hazard areas.
- d. State designated freshwater wetlands.
- e. rivers and other bodies of water.
- f. areas of shallow soil depth to bedrock or of numerous rock outcrops.
- g. areas subject to high erosion.
- h. other designated sensitive environmental areas, such as species habitat.

Where mitigation of any environmental impact is permitted by law, the applicant shall show or state in the site plan application all such proposed mitigation measures and shall provide evidence of application for any permits, submissions, agency approvals or other permissions required therefore.

13. Pedestrian Circulation. Will the development in general provide for the safe and convenient movement of pedestrians both within the site and to and from the site in a manner separated from vehicular traffic?

14. Preservation of Historic Resources. Are designated historical sites on the State and National Register of Historic Places located on the property to be developed? The applicant shall provide evidence of application for any permits, submissions, agency approvals or other permissions required in connection with the presence of such sites, areas and structures.

15. Neighborhood Compatibility. Will the location, scale, height, and appearance of structures be appropriate to their function and will they be compatible with the surrounding architecture, townscape and natural landscape?

16. Signs. All signs must be approved by the Town of Fowler Planning Board and are subject to building permit fees and size limitation requirements.

#### 4.3 - Additional Standards for Mobile Home Parks

The following requirements shall apply to three (3) or more mobile/manufactured homes (class A and class B) on a single property:

1. Installation standards. Installation of mobile/manufactured homes (class A and class B) shall be in accordance with standards set out in the New York State Uniform Fire Prevention and Building Code.

2. Water supply and Wastewater Facilities. All water supply and wastewater discharge facilities for mobile homes shall conform to Department of Health standards applicable to mobile home parks.

3. No Operation Unless in Compliance with all Laws. No mobile home park shall operate, or continue in operation, in any area of the Town unless the operation is in full compliance at all times with all applicable Federal, State, County and Town laws.

4. Automotive parking. At least one and a half (1.5) to two (2) off-street parking spaces for each mobile/manufactured home (class A and class B) shall be provided for each

individual mobile home site. Each parking space shall have convenient and ready access to the internal road network and shall not directly access a public road.

5. Internal Road System. The internal road system for mobile home parks shall comply with the following standards:

- a. All roads shall provide year-round accessibility to every lot in the mobile home park for emergency and service vehicles.
- b. All roads shall be a minimum of eighteen feet (18') wide and shall be constructed to accommodate two lanes of traffic.
- c. All road surfaces shall be paved or, at the discretion of the Planning Board, constructed with gravel or crushed stone.
- d. Any dead-end roads shall be no longer than five hundred feet (500') and terminate in a turn-around with a sufficient diameter to accommodate fire trucks and snow plows.

6. Recreation Area. A minimum area shall be set aside exclusively for recreational use by the residents, equal to the greater of five percent (5%) of the total property area or 4,000 square feet.

7. Screening and Landscaping. Undisturbed natural vegetation, fencing or a landscaped area along exterior lot lines shall provide visual screening of the mobile home park from adjacent residential properties.

8. Separation Distances. No mobile home shall be located closer than thirty feet (30') from any other mobile home.

9. Utilities and Lighting. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties. Emergency access to above-ground utility structures shall be provided at all times.

#### 4.4 - Additional Standards for Junkyards and Salvage Yards

Not applicable for the Town of Fowler

#### 4.5 - Additional Standards for Landfills

Landfills are not permissible in the Town of Fowler.

#### 4.6 - Additional Standards for Telecommunication Towers

1. Site Plan. The site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower(s), guy wire and anchors, parking and landscaping, and shall include grading plans for new facilities and roads.
2. Supporting Documentation. The applicant shall prepare and include each of the following:
  - a. A complete Visual Environmental Assessment Form (EAF), pursuant to 6 NYCRR Part 617. A copy of this form appears in Appendix C.
  - b. Documentation on the proposed intent and capacity of use.
  - c. Justification for the height of the tower and any clearing required.
  - d. A copy of the Certificate of Need from the NYS Public Service Commission and Federal Communications Commission, as applicable.

The Planning Board may require submittal of a more detailed visual analysis based on the information in the Visual EAF and the Visual Impact Assessment described in Sub Article 4 of this Article.

3. Tower Placement and Use Alternatives. Standards for alternative tower placement are as follows:
  - a. Shared Use of and Existing Tower. At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present a report that inventories existing towers within the area to be served by the proposed tower facilities and outlines opportunities for shared use of existing tower facilities.
  - b. Shared Use of a Site With a New Tower. Where shared use of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. An applicant proposing to share use with an existing tower shall provide proof of permission to allow shared use by the existing tower site owner.
  - c. New Tower at a New Location. The Planning Board shall consider a new telecommunication tower where the applicant has adequately demonstrated in a written report that shared use of an existing tower is not feasible. The report shall demonstrate:



(1) Good-faith efforts to secure shared use of an existing tower and document the physical and financial reasons why shared use is not feasible.

(2) Written requests for shared use and responses.

(3) Empirical data supporting the need for the new tower.

d. Future Shared Use of New Tower. An applicant shall examine the feasibility of accommodating future telecommunications equipment on the tower, either owned by the tower owner or leased to others. This requirement may be waived by the Planning Board provided the applicant demonstrates that future shared use is not feasible based upon:

(1) The number of Federal Communications Commission (FCC) licenses foreseeably available for the area.

(2) The kind of tower site a structure proposed.

(3) The number of existing and potential licenses without tower spaces.

(4) Available spaces on existing and approved towers.

(5) Potential adverse visual impact by a tower designed for shared usage.

3. Lot Size and Setbacks for New Towers. All new towers, whether owned or leased, shall be located on a single parcel and set back from abutting residential parcels, public property or street or road right-of-way lines a distance sufficient to substantially contain on-site ice fall or debris from tower failure and preserve the privacy of abutting residential properties. Towers shall conform to the following minimum lot size and setback values:

(1) All tower bases shall be set back a minimum distance of one-and-one-half (1.5) times the height of the tower.

(2) Lot size shall be determined by the amount of land required to meet the setback requirements.

4. Visual Impact Assessment. The applicant shall prepare a visual impact assessment of a proposed new tower or modification of an existing tower. The visual impact assessment shall include:

(1) A "Limit of Visibility Map" that shows from where the tower can be seen at all times of the year.

(2) Pictorial representation of “before” and “after” views from key viewpoints, including, but not limited to state highways and other major roads, state and local parks.

(3) Alternative tower designs and color schemes.

(4) Description of the visibility of the tower base, accessory buildings and overhead utility lines from abutting properties and streets.

5. New Tower Design. Alternate designs shall be considered for new towers, including lattice and pole structures. The design of a proposed new tower and site plan shall comply with the following:

(1) The tower and antennas shall be designed to withstand the effects of the wind according to the standards of the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association and Telecommunications Industry Association.

(2) Unless specifically required by other regulations, the tower shall have a finish that is compatible with the surrounding area, thereby minimizing visual impact.

(3) The maximum height of a telecommunications tower shall be no higher than the minimum required to accomplish the telecommunication objective of the applicant.

(4) Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the ambient surroundings.

(5) No portion of any tower or accessory structure shall be used for advertising. Signage shall be limited to owner name and emergency numbers.

(6) Appropriate screening to the benefit of abutting properties shall be indicated.

(7) Adequate emergency and service access shall be provided. Maximum use shall be made of existing roads, public or private. Road construction shall minimize ground disturbance and vegetation cutting to within the toe of filled areas, the top of cuts or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(8) Appropriate provision for parking shall be indicated.

6. Removal. Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of discontinuance of use.

7. Maintenance and Performance Bond. The Planning Board may, at its sole discretion, require the applicant and/or owner to establish, prior to approval of any application, a maintenance or performance bond in an amount sufficient to cover the installation, maintenance, and/or demolition of a tower during its lifetime. The bond amount shall be determined by the Planning Board. The applicant and owner shall cooperate with the Planning Board in supplying all necessary construction and maintenance data prior to the approval of any site plan application. The Planning Board may request, at the applicant's expense, a review of the application by a qualified engineer.

#### 4.7 - Additional Standards for Agricultural Uses

1. Minimum of 2 acres in a classified residential area for livestock.

#### 4.8 – Regulations and Standards for Outdoor Wood Furnaces

1. No person shall, from the effective date of this local law, construct, install, establish, operate or maintain an Outdoor Wood Furnace other than in compliance with the applicable Articles of Town of Fowler Zoning Code.

2. No person shall, from the effective date of this local law, operate an Outdoor Wood Furnace unless such operation conforms to the manufacturers instructions regarding such operation and the requirements of The Town of Fowler Zoning Code regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Articles 4.9(A) and 4.9(B) of this ordinance and chimney height as set forth in Article 4.9(D) and 4.9(F) of this ordinance.

3. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

4. The owner of any new Outdoor Wood Furnace shall produce the manufacturer's owner's manual or installation instructions to the Code Enforcement Officer to review at any time if requested.

5. All new Outdoor Wood Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.

6. If an existing Outdoor Wood Furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken by the owner and the Code Enforcement Officer:

(A) Modifications made to the unit to eliminate the nuisance such as extending the chimney, or relocating the Outdoor Wood Furnace or both.

(B) Cease and desist operating the unit until reasonable steps can be taken to ensure that the Outdoor Wood Furnace will not be a nuisance.

#### 4.9 – Additional Standards for Outdoor Wood Furnaces

1. Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

A. Fuel burned in any new or existing Outdoor Wood Furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets, or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup.

B. The following fuels are strictly prohibited in new or existing Outdoor Wood Furnaces:

(1) Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.

(2) Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.

(3) Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(4) Rubber, including tires or other synthetic rubber-like products.

(5) Newspaper, cardboard, or any paper with ink or dye products.

(6) Any other items not specifically allowed by the manufacturer or this provision.

C. Setbacks for any new Outdoor Wood Furnace (models not EPA OWHH Phase 1 Program Qualified) shall be as follows:

(1) The Outdoor Wood Furnace shall be located at least 15 feet from the property line.

- (2) The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.
- (3) The Outdoor Wood Furnace shall be located at least 100 feet from any residence that is not served by the Outdoor Wood Furnace.

D. Chimney heights for new and existing Outdoor Wood Furnaces shall be as follows:

- (1) The chimney of any new Outdoor Wood Furnace shall extend at least 18 feet above the peak of any residence not served by the Outdoor Wood Furnace located within 300 feet of such Outdoor Wood Furnace.
- (2) If there is an existing Outdoor Wood Furnace already installed and there is new construction of a residence not served by the Outdoor Wood Furnace within 300 feet of such Outdoor Wood Furnace, then the owner of such Outdoor Wood Furnace shall conform to the stack height requirements of this regulation within 30 days of the date such construction is complete and upon written notice from the Code Enforcement Officer.

E. Setbacks for EPA OWHH Phase 1 Program qualified models shall be as follows:

- (1) The Outdoor Wood Furnace shall be located at least 15 feet from the property line.
- (2) The Outdoor Wood Furnace shall be located on the property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.

F. Chimney heights for EPA OWHH Phase 1 Program qualified models shall be as follows:

- (1) The EPA OWHH Phase 1 Program qualified model chimney shall extend at least 2 feet above the peak of the residence for which it serves if neighboring residences not served by the furnace are located within 300 feet or the chimney shall extend at least 2 feet above the peak of any residence not served by the furnace within 100 feet, whichever is greater.

G. Outdoor Furnaces that use corn, wood pellets or other palletized biomass shall meet the same setback and stack height requirements as EPA OWHH Phase 1 Program Qualified models.

4.10 – Additional Standards for Fences

- A. Fences must be installed three (3) feet from the Fence owner’s property lines with good side towards neighbor.
- B. Right of Way is twenty five (25) feet from center line of Town owned road.
- C. Fences being installed facing the Town owned road, must be installed starting with the twenty sixth (26) foot from the center of the Town owned road.
- D. Fences being installed near County and State Highways must comply with County and State rules.

**ARTICLE 5 - APPLICABILITY TO SUBDIVISIONS**

5.1 - Subdivision Plat Approval Required

Subdivision plat approval is required:

- 1. whenever any subdivision of a parcel into three (3) or more parcels or lots within any 3 year period is proposed to be made within the Town, and
- 2. Before any contract for the sale of or any offer to sell any lots in the subdivision or any part thereof is made, and
- 3. Before any permit for the erection of any structure in the subdivision is granted.

Whenever any of the above applies, the applicant shall make application for and receive final approval of the proposed subdivision in accordance with these regulations.

5.2 - Effect on Existing Parcels and Lots

These Regulations do not apply to any division of property that has been lawfully recorded among the land records of the County as of the effective date.

## ARTICLE 6 - APPLICATION FOR SUBDIVISION APPROVAL

### 6.1 - General

BEFORE UNDERTAKING THE DIVISION OF ANY PARCEL OF PROPERTY, THE OWNER OF THE PROPERTY, OR A PERSON AUTHORIZED IN WRITING TO ACT FOR SUCH OWNER, SHALL, IN ACCORDANCE WITH THE PROVISIONS STATED HEREIN, APPLY TO THE PLANNING BOARD FOR APPROVAL OF A SUBDIVISION PLAT.

### 6.2 - Pre-application Procedures

Prior to the preparation and submission of a plat to the Planning Board for approval, the applicant must undertake the following steps:

1. Assemble the information and data on the existing conditions at and affecting the parcel to be subdivided.
2. Review New York State Real Property and Health Department laws concerning the subdivision of land.
3. Study the site suitability and opportunities for development and discuss the findings with a licensed land surveyor and, as appropriate, other consultants such as land planners and civil engineers.
4. In the event that the subdivided lots are to be marketed, develop financing and marketing plans and review them with a bank or lending institution.
5. Licensed survey conducted on the subdivided lots in accordance with NYS Law.

### 6.3 - Sketch Plan Conference

1. General. A sketch plan conference between the applicant and the Planning Board is encouraged to discuss in general terms the subdivision proposal, determine the information to be required in the subdivision application, assist the applicant in complying with the requirements of the State Environmental Quality Review Act (SEQRA) process and identify potential problems and concerns with the proposal.
2. Scheduling. The sketch plan conference shall be scheduled and conducted by the Planning Board at a regularly scheduled meeting. -

3. Sketch Subdivision Plat. At the sketch plan conference, the applicant shall provide, at a minimum, a sketch subdivision plat. This sketch plat shall show, at a level of detail deemed appropriate by the Planning Board

1. The subdivision name, tax map number, North arrow and date prepared, and
2. On a small inset map or diagram, the location of the parcel to be subdivided and its relationship to the surrounding area and public roads, and
3. Existing features and conditions on or affecting the parcel to be subdivided, to include
  - (1) Parcel boundaries.
  - (2) The location and ownership of contiguous properties.
  - (3) Adjacent roads.
  - (4) The location of any public utilities that will serve to lots to be created.
  - (5) Buildings, structures and other improvements.
  - (6) Watercourses, wetlands, steep slopes, outcroppings of bedrock, wooded areas, and other unique or significant physical features on or near the parcel.

Contours shall be noted in ten foot (10') increments.

4. The planned location of the following, as appropriate:
  - (1) Lots and lot lines to be created, annotated with width, depth and acreage. The sketch plat shall note the total acreage of the subdivision and the total number of lots proposed.
  - (2) Building uses and types, annotated with approximate size and cost.
  - (3) Internal roads.
  - (4) Access to public roads.
  - (5) Open space, common use and buffer areas.
  - (6) Water distribution systems or individual well locations.



(7) Wastewater collection and treatment systems or individual leach field locations.

(8) Drainage improvements, including profiles and lines or ditches and planned drainage easements on adjoining properties.

The applicant is encouraged to provide as much additional information about the project during the sketch plan conference as is possible, using the requirements for a final plat as set out in 9.3 of these Regulations as a guide.

4. Conduct. At the sketch plan conference, the Planning Board will review the sketch plat as it relates to the development policies and other land use regulations of the Town, and the design standards and improvement requirements set out in these Regulations.

#### 6.4 - Filing of Subdivision Application

To apply for approval of a subdivision plat, an applicant shall complete the "Application for Subdivision Plat Approval" form attached to this Law at Appendix "B", or its successor form (hereinafter, the "Application Form").

of these Regulations (hereinafter, the "Additional Information"), and attach, as appropriate, copies of a preliminary or final plat and supporting materials prepared in accordance with the requirements listed in this Law (the application form, additional information, and plat and supporting materials hereinafter collectively termed the "Subdivision Application").

An applicant proposing a subdivision not discussed with the Planning Board at a sketch plan conference shall prepare a preliminary plat.

The subdivision application shall then be filed by the applicant with either the Town Clerk or the Enforcement Officer. The date on which the subdivision application is filed with the Town Clerk shall be termed the "Filing Date." The Town Clerk who has received the subdivision application shall forward it to the Planning Board within five (5) days of the filing date and notify the Planning Board of the filing date.

#### 6.5 - Subdivision Application Information Requirements

The following additional information shall be required in addition to the completion of the "Application for Subdivision Plat Approval" form. A completed subdivision application shall

include all listed items unless submission of one or more of the items is specifically waived by the Planning Board.

1. Affidavit or Written Authorization of the Property Owner. If the person filing the subdivision application is the owner of the parcel that is to be subdivided, a notarized statement to that effect shall be filed. For non-owner applicants, a written permission of the owner that references the proposed subdivision shall be filed.

2. Proof of Legal Ownership or Right. The applicant shall include a copy of the deed, land contract, or other recorded instrument showing legal ownership of the parcel to be subdivided, or the legal right to subdivide the parcel in the absence of ownership.

3. Initiation of SEQRA Review. The applicant shall prepare and file as part of the subdivision application the New York State Short Environmental Assessment form, a copy of which is attached to this Law at Appendix "C", or its successor form, to allow the Planning Board to determine the applicability of the State Environmental Quality Review Act (SEQRA). For "Type I" SEQRA actions, which are those that may have a significant effect on the environment, and all other actions not listed as "Type II" SEQRA actions ("Unlisted Actions"), the Planning Board shall then initiate the review process required by SEQRA. Type II actions are not subject to review under SEQRA. A list of "Type I" and "Type II" actions is at Appendix "D" of this Law. As this list may be amended after the enactment of this Law, it should not be deemed authoritative and current information as of the date of the filing of the subdivision application must be obtained.

4. Restrictions and Encumbrances. The applicant shall provide copies of all recorded easements, restrictions and encumbrances affecting the parcel to be subdivided. If the applicant intends to convey the lots to be created subject to any covenants, easements or other restrictions, a copy of same shall be provided, otherwise applicant shall include a notarized statement to the effect that the lots to be created will not be subject to any such covenants, easements or restrictions.

5. Tax Map. The applicant shall include the tax map that shows the parcel to be subdivided.

#### 6.6 - Determination of Complete Subdivision Application

1. Complete Subdivision Applications. The Planning Board shall determine that a subdivision application is complete and deemed to be filed on the date that it has received a properly executed application form, appropriate additional information, and appropriate preliminary or final plat and supporting materials. Following a determination that a complete subdivision application has been filed, the Planning Board shall provide the

applicant with a written notice that states the filing date and provides the applicant with additional information about the review and approval process.

2. Incomplete Subdivision Applications. Incomplete subdivision applications shall be returned to the applicant by the Planning Board and shall be accompanied by a letter that states the information needed in order to proceed with the review. In the event that the applicant chooses to proceed with the subdivision application and resubmit the required information, the date on which all resubmitted information is received by the Planning Board shall become the new filing date.

#### 6.7 - Waiver of Certain Submission Requirements

In certain instances where a subdivision application would otherwise be returned to the applicant as incomplete, the Planning Board, consistent with good planning practices and at its discretion, may by majority vote waive one or more of the submission requirements listed in Article 6.6 of this Law, with the exception of any required preliminary or final plat.

#### 6.8 - Referral to County Planning Board

Pursuant to Article 12, 239-n of the General Municipal Law of New York State (**Ref 6**), certain subdivision applications that meet specified jurisdictional requirements must be referred to the County Planning Board for review. The applicant will be notified in the event referral is required. The applicant should contact the County Planning Office for additional information on 239-m review.

## **ARTICLE 7 - SUBDIVISION REVIEW PROCEDURE**

### **7.1 - Preliminary Plat Review**

1. **Applicability.** A preliminary plat shall comprise part of the subdivision application for any subdivision. For such subdivisions, the Planning Board must grant approval, or grant approval contingent upon modifications, prior to the filing of a final plat.

2. **Initiating the Review.** The review of a preliminary plat is initiated when the applicant has filed a complete subdivision application with the Planning Board that includes a preliminary plat.

3. **Requirement for Public Hearing.** Following

1. The review of the plat and other information submitted by the applicant, and
2. After advising the applicant of any changes deemed necessary, and
3. After allowing the applicant a reasonable time to respond to the proposed changes,

But in no event later than sixty-two (62) days dating from the filing date, the Planning Board shall hold a public hearing. The applicant shall receive written notice of the public hearing, which shall be mailed no later than ten (10) days prior to the date of the public hearing. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town no later than five (5) days before the public hearing. Written notice of the public hearing shall be mailed by the Planning Board to the owners of all property adjacent to the parcel to be subdivided and any other property located within one hundred fifty (150) feet of the parcel no later than five (5) days before the hearing.

4. **SEQRA.** The public hearing shall also be used to meet, as applicable and when possible, the requirements of the State Environmental Quality Review Act.

5. **Preliminary Plat Determination.** No later than sixty-two (62) days following the public hearing, the Planning Board shall

1. Approve, or
2. Approve contingent upon modifications, or
3. Disapprove the preliminary plat.

6. Actions Following Preliminary Plat Determination. The action of the Planning Board on the preliminary plat shall be noted on the three (3) copies of the preliminary plat and on the application form. In the event of approval contingent upon modifications, appropriate reference shall be made as to the modifications determined necessary. One (1) copy of the annotated preliminary plat and a copy of the application form shall be returned to the applicant within five (5) days of the date on which the determination was made, and the other two (2) copies of the preliminary plat retained by the Planning Board. One (1) Planning Board copy shall be deposited in the Town safe. If the Planning Board disapproved the preliminary plat, the return of the preliminary plat to the applicant will be accompanied by the Planning Board's reasons for disapproval, furnished in writing.

7. Effect of Approval of Preliminary Plat. The approval by the Planning Board of a preliminary plat does not constitute approval of the final plat, nor does it in any way bind or obligate the Planning Board to approve a final plat on a future date. The preliminary plat shall be used by the applicant as a guide to the preparation of the final plat. Any preliminary plat granted approval contingent upon modifications shall not be filed as a final plat until the applicant has addressed all modifications in a manner satisfactory to the Planning Board.

## 7.2 - Final Plat Review

1. Applicability. All subdivisions shall require final plat approval by the Planning Board.

2. Initiation Following Preliminary Plat Approval. An applicant proposing a subdivision that has been previously reviewed and approved by the Planning Board as a preliminary plat shall, within six months of the approval of the preliminary plat, update and resubmit the "Request for Subdivision Plat Approval" form that was returned by the Planning Board with the preliminary plat. The resubmitted form shall be accompanied by a final plat and supporting documentation, prepared in accordance with this Law, and an update of any information previously submitted that has changed. From this point there is no difference in the review process from a newly filed final plat. The date on which all required documents and information is received by the Planning Board shall become the "Final Plat Filing Date" for the purposes of these Regulations. In the event that the applicant takes no action to submit an approved preliminary plat in final form within the stated six months, approval of the preliminary plat may be revoked at the discretion of the Planning Board.

3. Initiation if no Preliminary Plat Submitted. The review of a final plat when there has been no previous approval of a preliminary plat is initiated when the applicant has filed a complete subdivision application with the Planning Board. In this instance, the filing date shall be deemed the final plat filing date.

4. Notification of Final Plat Filing Date. The applicant, on his or her request, shall be furnished at any time after the final plat filing date, certification by the Town Clerk of the final plat filing date (hereinafter, "Certificate of Submission").

5. Public Hearing. Following the review of the final plat and other information submitted by the applicant but in no event later than sixty-two (62) days dating from the final plat filing date, the Planning Board, will schedule a public hearing. The applicant shall receive written notice to be mailed no later than ten (10) days prior to the date of the public hearing. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town no later than five (5) days before the public hearing. Written notice of the public hearing shall be mailed by the Planning Board to the owners of all property adjacent to the parcel to be subdivided and any other property located within one hundred fifty (150) feet of the parcel no later than five (5) days before the hearing.

6. SEQRA. The public hearing may also be used to meet the requirements of the State Environmental Quality Review Act.

## **ARTICLE 8 - ACTION ON FINAL PLAT**

### **8.1 - Planning Board Determination**

No later than forty-five (45) days following the public hearing the Planning Board shall

1. Approve, or
2. Approve contingent upon modifications or subject to conditions, or
3. Disapprove the final plat.

The Planning Board may also approve a final plat in Articles.

### **8.2 - Approval**

The action of the Planning Board in approving a final plat shall be done by resolution stating such approval. Each final plat will have the words "Approved - Town of Fowler" stamped prominently on it with the stamped name and title of the Chair of the Planning Board stamped underneath. The Chair of the Planning Board shall sign and date with the date approved each final plat. The original final plat shall be returned to the applicant, and may then be recorded among the land records of the County. Recordation of an approved final plat must occur within sixty-two (62) days after the date of approval as noted on the

plat; otherwise, the approval of the final plat shall be considered null and void. In such event, the applicant must resubmit a new final plat to the Planning Board for approval. The two copies of the approved final plat, along with the application form and all supporting materials, shall be retained among the records of the Planning Board. The Enforcement Officer shall also be notified of the approval.

### 8.3 - Approval Contingent upon Modifications

1. General. The action of the Planning Board in approving a final plat contingent on modifications shall be done by resolution and shall be communicated in writing to the applicant, with the nature of the necessary modifications outlined and explained. The applicant shall have sixty-two (62) days to address all required modifications in a manner satisfactory to the Planning Board.

2. Modifications to Final Plat. If the modifications require a change to the final plat itself, a copy of the final plat noting the needed changes shall be returned to the applicant. The remaining final plats shall also be noted with the needed changes and retained by the Planning Board. The applicant must incorporate changes deemed acceptable by the Planning Board into a new original final plat, which shall be termed an "Amended Final Plat" and so titled. The original amended final plat shall then be resubmitted with two machine reproduced copies.

3. Modifications to Supporting Materials. If the modifications require a change to supporting documentation or materials, the specific item will be noted with the change and returned to the applicant, with a copy retained by the Planning Board. The applicant must incorporate changes deemed acceptable by the Planning Department and resubmit the item.

4. Planning Board Action Following Modifications. The Planning Board, after the making of acceptable modifications by the applicant, will approve the final plat as set out in this Article, with the modified plat or items replacing those deemed unacceptable.

5. Failure to Modify. In the event the applicant is not willing to make acceptable modifications, or does not act within sixty-two (62) days to do so, the Planning Board may act at any time after the sixty-two (62) days have elapsed to disapprove the final plat as set out in this Article.

6. Extension of Time to Make Modifications. The Planning Board, in its discretion, can grant additional time to an applicant for the purpose of making modifications, but any failure or delay of the Planning Board to disapprove such a final plat after the sixty (60) days have elapsed shall not constitute a bar to or limitation on its ability to act on any later date.

#### 8.4 - Approval Subject to Conditions

1. General. The action of the Planning Board in approving a final plat subject to conditions shall be done by resolution that authorizes the Chair of the Planning Board to approve the final plat at such time as the applicant has complied with the conditions established. Conditional approval of a final plat shall be communicated within five (5) days of the determination by certified mail to the applicant, with the certified statement of the nature of the conditions, and the actions that must be taken by the applicant, outlined and explained. The applicant shall have 180 days to address all conditions in a manner satisfactory to the Planning Board.

2. Planning Board Action Following Compliance with Conditions. The Planning Board, following acceptable compliance by the applicant with the conditions established, will approve the final plat as set out in this Article.

3. Failure to Comply with Conditions. In the event the applicant is not willing to comply in an acceptable manner with the conditions established, or does not act within 180 days to do so, the Planning Board may act at any time after the 180 days have elapsed to disapprove the final plat as set out in this Article.

4. Extension of Time for Compliance. The Planning Board, in its discretion, can grant up to 180 additional days in the form of two 90 day extensions for an applicant to comply with conditions, if, in its opinion, such extension is warranted by the particular circumstances involved.

#### 8.5 - Approval of Articles, Subject to Conditions

Prior to approving a final plat, the Planning Board may permit the final plat to be subdivided into two (2) or more Articles. The Planning Board may in its resolution granting conditional or final approval, require such conditions as it deems necessary to ensure the orderly development of the plat be completed before such Articles may be signed by the Chair of the Planning Board.

Conditional or final approval of any Articles of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.

#### 8.6 - Disapproval of a Final Plat

The Planning Board, upon disapproval of a final plat following a review against the standards set out in these Regulations, shall file with the Town Clerk a written statement of the decision containing the reasons for the disapproval signed by the Chair of the Planning Board. Copies of the written statement of disapproval shall be provided to the applicant and the Enforcement Officer.



### 8.7 - Approval by Operation of Law

If any time the Planning Board does not take action within the prescribed time, the applicant may assume approval of that stage of the process. In the event the Planning Board does not take action within the prescribed time on the final plat, the applicant may take a copy of the certificate of submission and the final plat as submitted and file them among the land records of the County.

### 8.8 - Extension of Time for Determination on Final Plat

The time period during which the Planning Board must render its determination on the final plat can be extended by the mutual consent of the applicant and the Planning Board.

### 8.9 - Amendments to an Approved Final Plat

Submission and review of any amendment to an approved final plat shall be acted upon in the same manner as the original application.

### 8.10 - Transferability of Final Plat Approval

An approved final plat that has not been recorded among the land records of the County shall be transferable upon the sale or transfer of the property that is to be subdivided on the provision of notice to the Planning Board by the new owner within thirty (30) days of the date the property is sold. The notice shall include the following:

1. The new owner shall affirm to the Planning Board the intention to construct all improvements in accordance with the approved final plat.
2. The new owner shall affirm to the Planning Board compliance with all conditions established by the Planning Board in connection with the approval of the final plat.

The Planning Board may revoke, without requirement of notice to the new owner, the final plat approval in the event that the new owner does not strictly comply with the provisions of this Article.

## 8.11 - Approval by State Department of Health

The New York State Department of Health must grant a separate approval for any subdivision where five (5) or more lots are created on five (5) acres or less in any three-year period. The applicant contemplating such a subdivision proposal should contact with the New York State Department of Health for additional information and assistance with this requirement.

## **ARTICLE 9 - PREPARATION OF PLATS**

### 9.1 - All Plats

All plats submitted to the Planning Board for any purpose under these Regulations shall be prepared and submitted in accordance with the following:

#### 1. Preparation.

1. Preliminary Plats. Three (3) preliminary plats, which may be any combination of original and machine reproduced copies, shall be prepared and certified by a licensed surveyor in such form and drawn in ink on such materials as is sufficient to provide for their use for the purposes established in these Regulations. Each copy shall be clearly labeled with the words "Preliminary Plat" and bear the notation "This plat is a preliminary plat and has not been approved in final form by the Town of Fowler. Any recordation of this plat is not authorized, and shall be ineffective to convey or transfer any lot shown hereon, or for any other purpose."

2. Final Plats. One (1) original final plat shall be prepared and certified by a licensed surveyor in such form and drawn in ink on such materials as is sufficient to cause it to be deemed acceptable for recordation by the County Clerk. Two (2) additional machine reproduced copies of the original shall be submitted with the original.

2. Scale. Plats shall be drawn to the scale of one (1) inch to one hundred (100) feet, unless otherwise specified by the Planning Board.

3. Survey. Plats shall be drawn according to a licensed survey and shall include a surveyor stamp.

4. Parcel and Lot Information. Plats shall note the recordation information, given as owner, deed book and page number, of the parcel to be subdivided, all adjacent parcels,

and any easement on or encumbering the parcel to be subdivided. The plat will show each lot to be created with boundary lines originating from a readily identifiable surveyed point and annotated between all points with feet and inches, the radii, length and central angle of any curves, location and type of stakes or monuments, and other customary information produced when the lot is surveyed. The Plat shall designate each lot to be created with a number, the first lot commencing with the number "1" and proceeding through all lots in a reasonable sequence with the final lot having a number equal to the number of lots to be created (e.g. a three lot subdivision will be comprised of Lot #1, Lot #2, and Lot #3). The lot designation will be annotated in the approximate center of the lot area on the plat, with the calculated acreage of the lot annotated immediately below. The plat shall note any lot that is to be retained or dedicated for public use or access, and the type of use or access that is contemplated. The plat shall note any lot that is to be recorded as dedicated open space.

5. Easement Information. Any easement in existence at the time of the preparation of the plat shall be noted on the plat as to location, type, and recordation information given as owner, deed book and page number.

6. Road Improvements. Plats shall include surveyed information pertaining to any existing or proposed road improvements or dedicated rights-of-way on the parcel being subdivided. Tangent bearings shall be provided for all internal roads. Lots to be retained for future road expansion shall be annotated as such.

7. Wetlands. The boundary of all federal jurisdictional wetlands and wetlands designated by the New York State Department of Environmental Conservation, to include a one hundred foot (100') buffer strip located in non-wetland area adjacent to any such boundary, shall be shown on the plat, and the wetland and buffer areas shall be clearly annotated as such on each lot containing these areas.

8. Access Information. All points of existing or proposed driveway access to internal roads and public roads shall be noted on the plat.

9. Other Required Information. Plats shall include the subdivision name, name, address and telephone number of the parcel owner (and of the applicant, if different), tax map number, location inset, north arrow, name, address and title of the preparer of the plat, customary surveyor's certification, and date prepared.

## 9.2 - Preliminary Plats

The following shall be submitted:

1. Completed application and supporting information as set out in these Regulations.
2. three (3) copies of the plat.
3. Information concerning existing features and conditions on or affecting the parcel to be subdivided, to include:
  - (1) Buildings, structures and other improvements.
  - (2) Watercourses, wetlands, steep slopes, outcroppings of bedrock, wooded areas, and other unique or significant physical features on or near the parcel.
4. Description of all parcels of land proposed to be dedicated to public use and the conditions of such use.
5. Grading and landscaping plans.
6. General plans showing locations of and design and specification information about sidewalks, road lighting, signage, water mains, sanitary sewers and storm drains, above- and below-ground utilities, and other similar improvements.
7. Preliminary plans, designs and specifications for any roads, bridges, culverts, drain ways and other surface drainage improvements.
8. Any additional information deemed necessary by the Planning Board.
9. Any required fees.

### 9.3 - Final Plats

The following shall be submitted:

1. Updated application and supporting information.
2. One (1) original and two (2) copies of the plat. In addition to the general form requirements established in this Article, the plat shall provide a table of the lots to be created, along with their acreage, road frontage and proposed use.
3. any deeds, declarations, covenants, easements and other agreements governing the offer, cession, dedication construction or maintenance of public areas, public improvements, other private improvements and undertakings, to include all boundary monuments and markers to such specifications as are established by the Planning Board, and open space.

All such documents shall bear the certification of the Town Attorney or of an attorney otherwise satisfactory to the Town, as to their sufficiency in accomplishing the purpose or purposes intended.

Any agreement concerning conditions or requirements established by the Planning Board in connection with approval of the subdivision plat must also be submitted and bear the noted certification.

4. Evidence of approval, or pending approval, from the New York State Health Department of any installed or proposed public or private water supply system for which such approval is required.
5. Evidence of approval, or pending approval, of any environmental impact statement or other submission under SEQRA for which approval is required.
6. Evidence of issuance, or pending issuance, of any permit that is required in connection with the subdivision.
7. Evidence, satisfactory in substance and form to the Planning Board, that all federal jurisdictional wetlands and wetlands designated by the New York State Department of Environmental Conservation, to include a one hundred foot (100') buffer area outside of the wetland boundary, that are located on the parcel to be subdivided, have been identified by the applicant and that the applicant has taken appropriate steps to cause such areas to be protected from unlawful activities or other adverse impact.

8. All construction drawings and specifications, in final form, to include, as required, plans, profiles and typical cross-Articles, showing surveyed locations, size and type of roads, sidewalks, road lighting standards, landscaping, curbs, water mains or wells, sanitary sewer or septic systems, storm drains or ditches and other improvements and facilities.
9. All covenants and restrictions, stated in the form in which they will appear in the deed of conveyance that will encumber any of the lots to be created.
10. Any easement, declaration or other instrument of a general nature that is to be separately recorded as an encumbrance on any of the lots to be created.
11. Any performance bond deemed necessary by the Planning Board to require the construction, installation or maintenance of improvements to the subdivision in a satisfactory manner, as set out in these Regulations.
12. Any agreements, certificates, affidavits, endorsements or other agreements as may be required by the Planning Board to enable enforcement of the foregoing.
13. Any additional information deemed necessary by the Planning Board.
14. Any required fees.

#### 9.4 - Waiver of Requirements

The Planning Board may waive, at its discretion and subject to any conditions it deems appropriate, the conformance, by any applicant, with any of the requirements of this Article, when, in its judgment based on the special circumstances presented by a particular plat, such waiver would be in the best interests of the applicant and would have no negative effect on the public health, safety and general welfare. The Planning Board may not waive any provisions regulated by state law.

## **ARTICLE 10 - SUBDIVISION DESIGN CRITERIA**

### **10.1 - Road Design**

1. **Conformity with General Development Policy.** Roads should conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of land. The New York State Department of Transportation or County Planning Office shall be consulted by the Planning Board for an advisory opinion before the approval of any new internal road.
2. **Planning and Design.** Internal roads shall be designed to discourage through traffic with origin and destination points that are not located within the proposed subdivision.
3. **Location.** When a proposed subdivision is adjacent to or contains a State or County highway, the Planning Board shall seek information from the New York State Department of Transportation or County Planning Office as to the potential for adverse impacts on highway safety and function. In addition:
  - The Planning Board may establish a requirement for internal roads when, in its judgment, use of such roads would promote a greater degree of safety or preserve public highway function.
  - The Planning Board will generally require that lots parallel to a public road be provided access from an internal road that in turn creates a single access point onto the public road.
  - The Planning Board will also generally require that an internal road be built in order to avoid creation of "flag" lots.
4. **Intersections.** Roads shall intersect one another at angles as near to a right angle as possible, and no intersections of roads at angles less than eighty (80) degrees shall be approved. Road intersections shall be rounded with a radius of twenty-five (25) feet measured at right-of-way line when said intersections occurs at right angles. If an intersection occurs at an angle other than right angle, it shall be rounded with a curve of radius acceptable to the Planning Board. Road jogs with center line offsets of less than one hundred twenty-five (125) feet shall be prohibited.
5. **Dead-End Roads; Cul-de-sacs.** All dead-end roads and cul-de-sacs shall be provided with a turnaround deemed sufficient by the Town Highway Superintendent for snowplowing and turn around by emergency vehicles.
6. **Half Roads.** Construction of half roads shall be prohibited.
7. **Access.** In commercial and industrial subdivisions, definite and assured provision shall be made for service access, such as off-road parking, loading and unloading, consistent with and adequate for the uses proposed.

8. Road Names and Numbers. Names of new roads shall not duplicate existing or platted roads in the Town or in any town adjacent to the Town. New roads that constitute the extension of an alignment of an existing road shall bear the name of the existing road. House numbers shall be assigned in accordance with present efforts by the County Real Property Tax Office to establish a County 911 Address system.

9. Signage. The applicant shall provide and erect road signs of a type to be approved by the Planning Board, in consultation with the Town Board and Town Highway Superintendent, at all road intersections prior to acceptance of the dedication of any road.

10. Landscaping. Landscaping will be located outside of any road right-of-way and planted in such a manner as not to impair visibility at any corner.

11. Design Standards. Standards for road design are as follows:

<u>Standard</u>	<u>Local Road</u>	<u>Secondary Road</u>
Minimum width of right-of-way (feet)	50'	65'
Minimum width of pavement (feet)	18'	18'
Minimum width of shoulders (feet)	5'	6'
Minimum radius of horizontal curves (feet) except for road intersection corners	250'	400'
Minimum length of vertical curves (feet) shall be such that at least a 200-foot line of sight exists measured 3 feet above the road surface		300'
Minimum length of tangents between reverse curves (feet) except where excessive grades may be reduced to reasonable grades by shortening tangent	200'	100'
Maximum grade (percent)	10%	6% to 8%
Minimum grade (percent)	1%	1%
Minimum braking sight distance (feet)	400'	500'



CONSTRUCTION OF ANY ROAD IN ACCORDANCE WITH THE FOREGOING DESIGN STANDARDS DOES NOT CREATE ANY DUTY OF THE TOWN TO ACCEPT ITS DEDICATION.

## 10.2 - Road Construction

1. Construction at Applicant's Expense. Road improvements, including curbing, shall be installed at applicant's expense.

2. Construction Standards. Roads shall be constructed in accordance with customary construction practices, and shall include the following courses.

1. Subgrade base, which shall be rough-graded the full width of the road right-of-way and compacted the full width between the outer edges of the curbs and gutter. The subgrade base shall consist of suitable gravel and stone material approved by the Town Highway Superintendent and compacted to a depth approved by the same.

2. Base course, consisting of a suitable gravel and stone material approved by the Town Highway Superintendent at least six (6) inches in depth after compaction and stabilization.

3. Surface course, consisting of an approved material.

4. Finish course, consisting of an approved material to be laid one (1) year after the surface course.

CONSTRUCTION OF ANY ROAD IN ACCORDANCE WITH THE FOREGOING CONSTRUCTION STANDARDS DOES NOT CREATE ANY DUTY OF THE TOWN TO ACCEPT ITS DEDICATION.

## 10.3 - Utilities

Public utility improvements may be required at the discretion of the Planning Board. Developer shall install all utilities. Utilities shall be installed as follows:

1. Fire Protection. Hydrants, where required, are to be of a size, type and location specified by the National Board of Fire Underwriters, American Insurance Association.

2. Street lighting. Poles, brackets and lights, where required, are to be of a size, type and location acceptable to the Planning Board in consultation with the Town Board and Town Highway Superintendent, and to the power company serving the Town.

3. Power Lines. Power lines shall be placed underground and shall be approved by the power company serving the Town.

4. Other Utilities. Other utility services shall be placed underground to the greatest extent possible and shall meet industry standards.

#### 10.4 - Lots

1. Dimensions. Lot size, width, depth, shape and area shall comply with the following:

1. Lots will have their longest aspect (depth) as close to perpendicular from the road fronted on as is practical.

2. Lots will have a minimum road frontage on internal roads of 100'.

3. Lots that have access only to public roads will have a minimum road frontage of 200'.

4. Lots that are triangular in shape and are under five (5) acres in size shall be limited and at the discretion of the Planning Board.

5. Lots with odd shapes or corners that could reasonably be held to give rise at a later date to a claim of nonconformity or variance will not be permitted.

6. Lots with odd shapes or corners that could reasonably be held to give permitted.

2. Double Frontage Lots. Lots that front on two (2) roads other than corner lots shall be limited and at the discretion of the Planning Board.

3. "Flag" Lots. Flag lots shall be limited and at the discretion of the Planning Board.

4. "Landlocked" Lots. Landlocked lots will not be permitted.

5. Inaccessible Lots. Lots that, due to steep slope, rock, wetland, or the presence of some other physical condition, do not have a reasonable access point from the road fronted on will not be allowed.

6. Poorly Drained Lots. Lots located in areas that are not served by community wastewater systems that do not have at least two locations at least 200' apart that will pass a customary percolation ("perc") test will not be allowed.

7. Setbacks. Lots that do not, in the judgment of the Planning Board, allow for a reasonable setback from the road of the primary building or structure to be located on the lot will not be allowed.

8. Pedestrian Easements. In order to facilitate pedestrian access from roads to schools, parks, play areas or nearby roads, the dedication of perpetual unobstructed easements at least twenty (20) feet wide may be required by the Planning Board. In heavy traffic areas, the Planning Board may require the construction by the applicant of sidewalks on such easements.

#### 10.5 - Unique Physical and Natural Features

Unique physical and natural features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours, large trees, and similar features, shall be preserved where possible.

#### 10.6 - Site Disturbance and Grading

All areas to be disturbed must be graded and restored within six (6) months. The Code Enforcement Officer will inspect the site to ensure site restoration. Topsoil moved during construction shall be returned and stabilized by approved methods. Damage to trees should be avoided.

#### 10.7 - Open Space; Parks; Payments in Lieu; Reservation of Areas

Consideration shall be given to the allocation of areas suitably located for open space and public parks and, where deemed appropriate, shall be made available by one (1) of the following methods:

1. Dedication to the town, or
2. Reservation of land for the use of property owners by deed or covenant.

In the event that the Planning Board determines that a suitable park or a park of adequate size cannot be properly located in the plat or that park development would not otherwise be practical, the Planning Board may require as a condition of approval of the final plat a payment to the Town of a sum to be determined by the Town Board, which sum shall constitute funds to be held in trust and used by the Town exclusively for neighborhood park, playground or recreational purposes, to include the acquisition of property.

The Planning Board may require the reservation of such areas in a subdivision that are of a character, extent and location particularly suited to the needs of the Town, such as water and sewage treatment plant sites and for other community purposes.

#### 10.8 - Land Unsuitable for Development as a Subdivision

In order to provide for the protection of the health and welfare of the people of the Town, land which is found to be unsuitable for subdivision due to adverse or unsafe conditions or features, or due to its sensitive environmental character, shall not be subdivided unless adequate safeguards are formulated by the applicant and are approved by the Planning Board.

### **ARTICLE 11 - PERFORMANCE BONDS AND FEES**

#### 11.1 - Performance Bonds

The Planning Board, in connection with any approval granted a site plan or final plat under these Regulations, may establish as a condition of approval the posting by the applicant of a performance bond to insure the construction, installation or maintenance of improvements in a satisfactory manner. The bond shall be in an amount equal to the cost of the improvement or, in the case of maintenance of an improvement, equal to the estimated amount of the cost to the Town of providing such maintenance for a period of three years. Any such bond and all associated documents shall bear the certification of the Town Attorney or of an attorney otherwise satisfactory to the Town, as to their sufficiency in accomplishing the purpose or purposes intended.

#### 11.2 - Fees

The Town Board will establish a fee schedule that will be reviewed and revised periodically as required. Permit fees shall be paid according to the fee schedule as established by resolution of the Town Board without the necessity of advertisement or a public hearing.

## ARTICLE 12 - ADMINISTRATION

### 12.1 Planning Board

1. Planning Board Creation. The Town of Fowler shall establish a Town Planning Board. The Town of Fowler Planning Board, pursuant to Section 271 of New York State Town Law, shall consist of five (5) members, each of whom shall reside in the Town of Fowler.
2. Composition. The Planning Board shall consist of five (5) members, all of whom shall reside in the Town at the time of their respective appointments and during their terms of office.
3. Appointment of Members and Terms of Office. Appointment of Town Planning Board members shall be made by the Town Board. The first appointments of members thereto shall be for terms so fixed that at least one (1) will expire at the end of each calendar year commencing at the end of the current such year and continuing in succeeding years until the entire original membership have completed their terms. [The terms of the initial appointments shall be as follows: The Town Board shall appoint one member to serve a one (1) year term, one member to serve a two (2) year term, one member to serve a three (3) year term, one member to serve a four (4) year term and one member to serve a five (5) year term. All members appointed or reappointed thereafter following on the expiration of the term of an initial member shall be appointed for a term of five (5) years.] Reappointment of a member shall be at the discretion of the Town Board.
4. Vacancies. In the event of a vacancy arising during the term of office of any member for any reason, such vacancy shall be filled by appointment of a new member who shall serve the balance of the term.
5. Selection and Responsibilities of Chair, Vice-Chair and Secretary. The Planning Board, at its initial meeting, shall, by a majority vote, select a Chair, Vice-Chair and Secretary. The Chair shall preside at all meetings of the Planning Board and shall take such actions on behalf of the Planning Board as are authorized by the vote of its members. The Vice-Chair shall act for the Chair at such times as the Chair is unavailable. The Secretary shall be responsible for preparing the agenda and minutes of the meetings of the Planning Board, shall receive all correspondence and other communications directed to the Planning Board, and shall prepare all correspondence, reports and other documents on behalf of the Planning Board as are authorized by the vote of its members. The Town Clerk shall attend all meetings of the Town Planning Board and shall take notes on the proceedings in order to develop minutes.
6. Meetings; Quorum; Votes. The Planning Board shall meet at such times of its choosing, but shall schedule a regular meeting during which all matters before it may be considered at least monthly during the year, in accordance with the requirements for public notice, access and participation established in the State's Open Meetings Law. All proceedings of

the Planning Board shall be recorded by the Secretary and, unless otherwise provided for by law, be a matter of public record. A quorum of the membership of the Planning Board shall be obtained for any purpose of the Planning Board when at least three (3) of the members are present. The Planning Board may not act in any manner or for any purpose in the absence of a quorum of its membership. Votes of the Planning Board shall be taken following a recorded motion and second from the membership, and shall be recorded as to ayes and nays. A majority of the membership of the Planning Board shall constitute the "majority vote" of the Planning Board required for all purposes under this Law.

## 12.2 - Powers and Authorities of Planning Board; Fees

The Planning Board established pursuant to Article 12.1 of this Law is hereby authorized to receive applications for all site plan and subdivision reviews as required under this Law. On making the determination provided for that such applications are complete, the Planning Board is authorized to review them in accordance with the provisions of this Law and to make the findings provided for therein. Specifically, the Planning Board is authorized by majority vote, at its discretion, to

- 1) Approve the application; or
- 2) Approve the application with modifications or conditions, or both; or
- 3) Disapprove the application.

The Planning Board is further authorized, at its discretion, to require, receive and consider reports, testimony, and other evidence during its proceedings, and to make such additional inquiry as it deems necessary into any matter relevant to the making of its determination on a site plan application properly before it.

In the event that the Planning Board determines that modifications or conditions are necessary in approving a site plan or subdivision, it is hereby authorized to require or impose such modifications and conditions as, in its discretion, are necessary to adequately safeguard the public health and safety, or are needed to provide for and safeguard the welfare and quality of life of adjacent landowners and of the residents of the Town.

As required under SEQRA, the Planning Board is authorized to act as the lead agency for the purpose of reviewing a proposed site plan or subdivision pursuant to that law.

Once a site plan or subdivision has been approved, the Planning Board is authorized to act on the request of any person, or on its own initiative, to suspend or, at its discretion, revoke such site plan or subdivision approval when work or other compliance with the approved site plan subdivision plat is not accomplished as required. The Planning Board is also authorized to recommend to the Town Board, in such instance and as appropriate,

that any building permit or other approval that has been granted be likewise suspended or revoked.

The Planning Board is authorized to establish charge and receive such fees as are determined necessary to undertake and conduct the review of any site plan application. The Planning Board shall not deem an application to be complete until the fee established for the review of the application has been received. The setting of a fee amount by the Planning Board shall not be deemed to preclude the Planning Board from assessing additional amounts when the cost of the review exceeds the amount of the fee originally assessed. The Planning Board may, in its discretion, allow direct payment by the applicant of costs and charges to any business, agent or contractor of the Planning Board that is retained by the Planning Board in connection with the review. The Planning Board shall refund all of any portion of any fee that is collected but not spent in connection with the review within thirty (30) days of the completion of the review or of the termination of the review for any reason. At the request of any applicant, the Planning Board shall render a statement documenting the expenditure of any fee charged.

### 12.3 - Appeals Procedure

Any person aggrieved by any decision of the Planning Board or by the action of an officer of the Town with respect to the provisions of this Law may apply to the Supreme Court for a review of the decision by a proceeding brought under Article 78 of the Civil Practice Laws and Rules. Such proceeding must be brought within thirty (30) days of the date of the filing of a final decision rendered pursuant to Article 4.2 of this Law in the office of the Town Clerk, or it is statutorily barred.

### 12.4 – Code Enforcement Officer

1. Position Created. The Town Board has previously established the Office of Code Enforcement Officer in the Town of Fowler. This Local Law ratifies the continuance of this Office.

2. Appointment. The Code Enforcement Officer for the Town shall be appointed by the Town Supervisor with the approval of the Town Board and be compensated at a rate to be fixed by said Board. The Enforcement Officer shall serve at the pleasure of the Town Board. In the absence of the Code Enforcement Officer, or in the case of the inability of the Code Enforcement Officer to act for any reason, the Supervisor shall have the power, with the consent of the Town Board to designate a person to act in this capacity.

3. Powers and Duties. The Code Enforcement Officer shall carry out all the functions identified in this Local Law and shall otherwise assist the Town Board in the administration and enforcement of this and other local laws. The Code Enforcement Officer shall be responsible for the overall inspection of sites to ensure compliance with approved site plans and subdivision plats. The Code Enforcement Officer shall conduct such inspections on a discretionary basis, or on the direction of the Planning Board. In the event that the Code Enforcement Officer determines that a violation or other non-compliance with the conditions of an approved site plan or subdivision plat has occurred, such violation or non-compliance shall be reported expeditiously to the Planning Board. The Code Enforcement Officer shall be required to attend Planning Board meetings. The Code Enforcement Officer shall obtain the required State certification for the position and attend training workshops and courses, as they become available.

#### 12.5 - Issuance of Building Permit Conditioned

No building permit shall be issued by any official or employee of the Town for any project that requires site plan review or subdivision approval under this Law unless all approvals are on file with the Town Clerk or, for a subdivision, the County Clerk. Any building permit issued in contravention of this provision, or that is issued in error, or that is issued based upon any misrepresentation of the applicant, whether intentional or unintentional, shall not be deemed to confer any right of any sort upon the person that the permit is issued to, nor shall it be deemed to deny or restrict any right or ability of the Town to take any action of any sort against such person and the building, structure or property that is the subject of the building permit.

#### 12.6 - Violations and Enforcement

- A. It shall be unlawful to erect, construct, alter, improve or use any building or structure or portion thereof or otherwise commence a use defined in this Local Law requiring site plan approval without having first applied for and obtained a permit.
- B. Any person, firm, corporation or other legal entity that violates, disobeys, neglects, or refuses to comply with any provisions of this Local Law shall be guilty of an offense, and upon conviction thereof, be subject to a civil penalty of not more than two-hundred fifty dollars (\$250.00) to be recovered by the Town of Fowler in a civil action. Each week of said offense, if continuous, shall constitute a separate offense. If an action is required to enforce this local law before the Supreme Court of the State of New York, said Supreme Court Judge is fully authorized to impose a civil penalty of up to \$250.00 per week. Said civil penalty is payable to the Town of Fowler in all instances.
- C. In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed under an approved site plan, the Town may institute any appropriate action or proceeding to prevent or enjoin the unlawful activity deemed to give rise to the violation; i.e. to restrain, correct, or abate such activity, or to prevent



occupancy of any building, structure or land involved in such activity, or to prevent any illegal act, conduct, business or use that constitutes all, or part, of any such activity.

- D. The Planning Board may act, in its discretion, to suspend or revoke any approved site plan as to improvements that remain uncompleted in the event of any deviation or discrepancy from the terms and conditions of the approved site plan.
- E. No building permit, certificate of occupancy or other authorization of use shall be granted until all improvements shown on an approved site plan or agreed upon as conditions to an approved site plan are installed or a performance guarantee deemed sufficient by the Planning Board has been posted for such improvement not completed and a timetable approved by the Planning Board for such completion has been established and agreed to by the applicant.
- F. Any permit or approval granted based upon a site plan approved pursuant to this Law shall be void if the site plan was approved in reliance upon any material misrepresentation or failure to make a material fact or circumstances known, whether by or on behalf of an applicant.

## **ARTICLE 13 - MISCELLANEOUS PROVISIONS**

### **13.1 - Effective Date**

This Law shall take effect immediately upon filing with the Secretary of State. The date upon which this filing is made shall be deemed the "Effective Date."

### **13.2 - Severability**

If any Article, Article, paragraph or provision of this Law shall be deemed invalid by any authority of competent jurisdiction, such determination shall apply only to the Article, Article, paragraph or provision adjudged invalid and the rest of this Law shall continue valid, effective and in force.

### **13.3 - Provision of Notice Deemed to have occurred**

Unless otherwise specifically provided herein, any notice, letter or other written communication furnished to an applicant under any provision of this Law shall be deemed furnished on such date as it is postmarked. Any notice, letter or other written communication to be furnished by an applicant under any provision of this Law shall be deemed furnished within 10 days from the date that it is actually received by the person or entity specified in such provision.

## APPENDICES

Appendix A Application for Site Plan Review

Appendix B Application for Subdivision Plat Review

Appendix C Short Form Environmental Assessment

Appendix D SEQR Type I and Type II Actions

Appendix E Application for Renewal of Junkyard or Salvage Yard Site Plan Approval Permit

Appendix F Town of Fowler Site Plan Approval Permit

**APPENDIX A**

**APPLICATION FOR SITE PLAN REVIEW**

Date: \_\_\_\_\_

**Applicant:**

Name \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

**Property Owner** (if different): \_\_\_\_\_

Letter of signed permission attached (circle one): yes no

**Location of Site** (road name and estimated distance from nearest Intersection): \_\_\_\_\_  
\_\_\_\_\_

**Parcel tax map number** Article \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

**Total Site Area** (square feet or acres) \_\_\_\_\_

**Describe proposed buildings, structures and/or uses of site:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**List the uses on surrounding properties:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**List attachments to this application:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTE: A permit fee of \$ \_\_\_\_\_ shall accompany this application.**

Signature \_\_\_\_\_

Typed/printed Name:

**APPENDIX B**

**APPLICATION FOR SUBDIVISION PLAT REVIEW**

Date: \_\_\_\_\_

**Property Owner:**

Name \_\_\_\_\_

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

**Location of Property** (road name and estimated distance from nearest intersection):

\_\_\_\_\_  
\_\_\_\_\_

**Parcel tax map number** Article \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

**Total Area of Parent Parcel** (acres) \_\_\_\_\_

**Describe the number of lots, acreage, and purpose of the proposed subdivision:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**List the uses on surrounding properties:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**List attachments to this application (See 9 of the regulations)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

Typed/Printed Name:

**APPENDIX C**

**Short Environmental Assessment Form**

**APPENDIX D**

**SEQRA List of Type I and Type II Actions**

**APPENDIX E**

**APPLICATION FOR RENEWAL OF JUNKYARD OR SALVAGE YARD SITE PLAN  
APPROVAL PERMIT**

Check one: \_\_\_\_\_ Junkyard \_\_\_\_\_ Salvage Yard \_\_\_\_\_ Both

(Definitions on reverse side of this form)

**Date:** \_\_\_\_\_

**Applicant:**

Name \_\_\_\_\_

Mailing Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

**Property Owner** (if different): \_\_\_\_\_

Letter of signed permission attached (circle one): yes no

**Location of Site** (road name and estimated distance from nearest intersection): \_\_\_\_\_  
\_\_\_\_\_

**Parcel tax map number** Article \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

Please attach a copy of the current site plan approval permit to this form.

**NOTE: A permit fee of \$ \_\_\_\_\_ shall accompany this application.**

Signature: \_\_\_\_\_

Typed/printed Name:

**THIS IS THE REVERSE SIDE OF APPLICATION FOR RENEWAL OF JUNKYARD OR SALVAGE YARD SITE PLAN APPROVAL PERMIT**

Definitions:

Junkyard -- Any place of storage, deposit, or salvaging of machinery or vehicles not in running condition, whether in connection with another business or not, where six or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held. Such term shall include any place of storage, deposit, reclamation or disposal of used parts or waste materials, whether metal, glass, fabric or otherwise, from inoperable machinery or motor vehicles which, taken together, equal in bulk six or more such vehicles. The term junkyard shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for re-melting purposes only. (See also "Salvage Yard", below)

Salvage Yard -- An establishment having facilities for purchasing, storing, collecting or processing wastepaper, rags, iron, steel or nonferrous scrap and whose principal produce is recycled paper, rags, or scrap iron, steel or other nonferrous scrap for sale for re-melting purposes only. A salvage yard is not considered a junkyard unless the equivalent in parts of two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are present, as described in the definition of "Junkyard", above.



APPENDIX F  
**TOWN OF FOWLER SITE PLAN APPROVAL PERMIT**

Statutory Authority:

Town of Fowler Land Use Site Plan Review and Subdivision Local Law, adopted December 2, 2014 pursuant to the authority and provisions of Article 10 of the New York State Municipal Home Rule Law and 274-a and 276 of the New York State Town Law.

This permit is hereby issued to the property owner identified below and remains valid for the period specified, subject to satisfactory compliance with any conditions set forth herein.

---

**Date of Issuance:** \_\_\_\_\_

**Expiration Date (if applicable):** \_\_\_\_\_

**Issued to Property Owner:**

Name \_\_\_\_\_

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

**Location of Site** (road name and estimated distance from nearest Intersection): \_\_\_\_\_  
\_\_\_\_\_

**Parcel tax map number** Article \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

**Description of permitted buildings, structures and/or uses of site:**  
**(Site Plan to be attached to this permit.)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Permit Conditions:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Approved by: \_\_\_\_\_, Chairman, Fowler Planning Board