

Revised Proposed 10/17/08

Note: Change recommended by the Building Inspector and the Administrator to 79-4, G. 2.

LOCAL LAW NUMBER OF 2008

**A local law to repeal Chapter 79,
to adopt a new Chapter 79 Site
Plan and to amend Chapter 98 to
make it consistent with the new
Chapter 79**

**BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS
FOLLOWS:**

SECTION 1

Chapter 79 of the Code of the Village of Pelham is repealed, and the following new Chapter 79 Site Plan is adopted:

Chapter 79, SITE PLAN APPROVAL

§ 79-1. Title.

The chapter shall be known as "Chapter 79 Site Plan Approval of the Code of the Village of Pelham."

§ 79-2. Purpose.

This chapter is enacted pursuant to the provisions of § 7-725a of the Village Law of the State of New York to ensure that proposed development and land use within the Village of Pelham will be harmonious with the existing or permitted use of contiguous land and of adjacent neighborhoods and that proposed development takes into consideration public health, safety, welfare, comfort and convenience.

§ 79-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPROVAL AUTHORITY – The board with the authority to give final approval of a site plan.

SITE PLAN -- A plan which shows a proposed development and/or use of land within the Village of Pelham. Such plan shall consist of a map or maps and supporting documentation as set forth in § 79-9 herein.

§ 79-4. Applicability.

The types of development or use set forth below shall require site plan approval by the Village of Pelham as specified in §79-5:

- A. The erection of any building in a non-residential district
- B. The erection of any building for a principal use in a residential district
- C. The erection of any permitted accessory building which is located in a residential district and has a building area of more than 275 square feet.
- D. The enlargement of any residential building that results in the expansion of living space, as defined by the NYS Building Code, by more than 35% or 750 square feet.
- E. The substantial alteration or modification of land from its natural state, whether by regrading or the addition of structures other than buildings.
- F. Any change in the use or intensity of the use of premises which will require a modification of existing means of ingress or egress, parking or loading facilities, drainage, utilities, landscaping, screening or outdoor lighting unless the work performed is pursuant to a previously approved site plan that is still valid. Excluded from review under this Chapter are changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which are regulated by Chapter 77.
- G. Any alteration or modification of a building in a non-residential district with the following exceptions:
 - 1. Work performed pursuant to a previously approved site plan that is still valid;
 - 2. Repainting a previously painted exterior surface **that is visible from the street with the same color;**
 - 3. Replacement of any window or door with one that has the same style, size and location;
 - 4. Maintenance of an exterior surface of brick or stone work, stucco, steps or platforms, wood shingles, trim and other protective finishes, but not the replacement of exterior surface finishes that result in the change of the material of the exterior surface, of the finishes or of the design; and

5. Pointing of brick or stone work and measures to prevent the entry of water into a building that do not require covering any portion of the existing design features or the exterior surface materials.
6. Changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which must be approved by the Architectural Review Board pursuant to Chapter 77.

H. Creation of a driveway.

I. Installation of an in-ground pool

§ 79-5. Designation of the approval authority for site plans.

- A. The Planning Board shall be the approval authority for site plans for the types of development described in § 79-4C, D, E, H and I.
- B. The Board of Trustees shall be the approval authority for site plans for the types of development described in § 79-4A, B, F, and G.

§ 79-6. Standards for review; objectives.

A. The Board of Trustees, Planning Board, all other Village Boards and agents, whether considering and approving applications or preparing recommendations and findings, shall take into consideration:

(1) Public health, safety and general welfare; and

(2) The comfort and convenience of the general public, of the residents or users of the proposed development, and of the immediate neighborhood.

B. The Board of Trustees, Planning Board, all other Village Boards and agents shall also prescribe appropriate conditions and safeguards consistent with the general purpose and intent of this chapter and Chapter 98 of the Code of the Village of Pelham, and all other applicable law to achieve the following objectives:

(1) That all proposed traffic access ways

(a) Have sufficient, but not excessive, capacity;

(b) Are adequate in width, grade, alignment and visibility;

(c) Are not located too near street corners or places of public assembly;

- (d) Are designed with due regard to other similar safety considerations; and
 - (e) Are provided with all traffic safety devices needed for the protection of motorists, cyclists and pedestrians.
- (2). That the interior circulation system is adequate to provide safe access to all required off-street parking spaces, loading bays and building services.
 - (3) That the locations of areas for play and other active use take into consideration the users' safety and welfare.
 - (4) That at all seasons of the year all playground, parking and service areas are reasonably screened from the view of adjacent residential lots and streets where such screening is necessary for the protection of such lots and streets and is practical;
 - (5) That the general landscaping of the site is consistent with or superior to that of the neighborhood and will enhance the aesthetics of the abutting street or streets;
 - (6) That all existing trees over eight inches in diameter, measured three feet above the base of the trunk, are retained to the maximum extent possible.
 - (7) That all plazas and other paved areas use decorative pavements and/or plant materials so as to avoid the creation of vast expanses of pavement.
 - (8) That all outdoor lighting is designed and placed to:
 - (a). Harmonize with the character of the neighborhood; and
 - (b) Limit, to the extent reasonable, the diffusion of glare onto adjoining properties and streets.
 - (9) That the drainage and sewerage systems comply with all applicable law. Such compliance includes, but is not limited to, drainage and sewer systems that are adequate to accommodate any expected loads which include all runoff from the tributary watershed at full development under the existing zoning. This includes, when practical, on-site retention for rains up to 2 inches within a 24 hour period for all the increased impervious surfaces caused by the improvements.
 - (10) That the planned development will include no illegal discharges or illicit connections to the village separate storm sewer system and complies with Chapter 57 of the Village of Pelham Code and all other applicable laws.
 - (11) That all proposed structures, equipment or materials will be readily accessible for fire protection and will not constitute a fire hazard to adjacent structures.

- (12) That the site plan and building design consider energy conservation.
- (13) That the site layout and overall appearance of buildings on the site will have no reasonably avoidable adverse impact on the established character, desirability, or value of the adjacent properties.
- (14) That the building designed is responsive to the design characteristics of the adjoining lots, other structures within 200 feet of the site or the Village as a whole, whichever is more appropriate.

§ 79-7. Procedure.

All applications for site plan approval shall follow the following procedure:

- A. Presubmission conference to determine zoning compliance and contents of site plan and supporting information,
 - (1) Prior to submitting a formal site plan, the applicant shall meet in a presubmission conference with the Building Inspector so that the Building Inspector can determine whether the proposed development complies with Chapter 98 of the Code of the Village of Pelham or whether the applicant must apply for a variance from the Zoning Board of Appeals.
 - (2) After the Building Inspector determines that proposed development does not require a variance from the Zoning Board of Appeals or after the required variance from the Zoning Board of Appeals has been obtained, the Building Inspector will determine what information listed in § 79-9 must be included in the site plan application
 - (a) If the applicant agrees with the Building Inspector's determination of what information must be supplied to the Planning Board, then the applicant shall prepare the site plan and required supporting information.
 - (b) If the applicant disagrees with the Building Inspector's determination of what information must be provided with the site plan, then the applicant may apply to the Planning Board to review solely what information must be submitted with the site plan.
 - (c) The Building Inspector or Planning Board may revise or waive the provisions of any of the required information listed in § 79-09. Such revisions or waivers may be granted only after a finding that:

[1] Such requirement is inappropriate or unnecessary due to the

limited nature of the proposed development, special conditions particular to the site or the fact that strict compliance with such requirement will cause such unnecessary work, expense or hardship.

[2] The granting of such revisions or waiver does not interfere with the accomplishment of the purposes and intent of this chapter nor have a detrimental effect on the public health, safety or general welfare.

- B. Submission. After the scope of the information required for submission of the site plan is determined, the applicant shall submit to the Building Inspector
- (1) A completed declaration of intent to develop form that is provided by the Village;
 - (2) One copy of the site plan with related and supporting information;
 - (3) The fee set by resolution of the Board of Trustees; and
 - (4) Proof of notice to all property owners contiguous to the applicant's property, including those separated by a street. These notices must be hand-delivered or mailed by the applicant at least 10 days prior to the date of the scheduled consideration by the Planning Board. Proof of the notice will be an affidavit, or other proof of delivery, or proof of mailing, which must be provided by the applicant to the Village Clerk prior to the Planning Board meeting.
- C. Then the Building Inspector shall review the original or amended site plan to determine whether the architect has designed a structure that complies with all applicable laws. The Building Inspector shall also confirm that the application contains all the required elements set forth in § 79-9 which were not specifically waived by the Building Inspector or Planning Board. If the Building Inspector finds that the application is incomplete or fails to comply with all applicable requirements, within 15 working days of its receipt, he shall return the application to the applicant and indicate the specific deficiencies to be remedied.
- D. Once the Building Inspector determines that the application is complete and complies with all applicable laws, an applicant will supply additional copies of the site plan and its supporting documentation. Applicants submitting a site plan for a type of development described in § 79-4C, D, E, H or I must supply the Building Inspector with seven (7) complete copies of the site plan and its supporting documentation. Applicants submitting a site plan for a type of development described in § 79-4A, B, F, or G will supply the Building Inspector with fifteen (15) complete copies of the site plan and its supporting documentation.
- E. Delivery of completed site plans to the approval authority. In cases of site plans for development of the type described in § 79-4C, D, E, H or I, the Building Inspector will forward the copies of the site plan and its supporting documentation to the Planning Board within five (5) working days from the time the Building Inspector receives the

required number of completed plans. In cases of site plans for development described in § 79-4A, B, F, or G, the Building Inspector will forward the copies of the completed site plan and its supporting documentation to the Planning Board and the Board of Trustees within five (5) working days from the time the Building Inspector receives the required number of completed plans. The date of submission of the site plan to the Board with approval authority shall be considered the official submission date.

F. Upon receipt of the copies of the site plan, the Planning Board will forward the application to those Village Boards that it deems appropriate. The Building Inspector and any board to which the site plan is forwarded shall submit its written recommendations and findings to the Planning Board. Such recommendations and findings must consider the standards set forth in § 79-6, and be submitted to the Planning Board no later than 15 working days prior to any public hearing thereon or 60 working days following referral of the application if no public hearing shall be held thereon.

G. Planning Board Review of Site Plans.

(1) In cases of site plans for the types of development described in § 79-4C, D, E, H or I, the Planning Board shall approve, approve with conditions or disapprove any such site plan within 30 days following the close of the public hearing or if no hearing is held, within 60 days of the official submission date. These time periods may be extended with the consent of the applicant. In reviewing the application, the Planning Board shall request that the applicant make revisions which the Planning Board deems necessary to ensure that the proposed development will conform to the intent and requirements of this chapter. If the Planning Board disapproves the application, within 10 days of its decision it shall give the applicant a written decision setting forth the reasons for the disapproval and deliver a copy of the decision to the Building Inspector for the permanent building file.

(2) In cases of site plans for the types of development described in § 79-4A, B, F or G, the Planning Board shall submit its written recommendations and finding as well as the written recommendations and findings of the Building Inspector and any other village boards, to the Board of Trustees. Such recommendations and finding must consider the standards set forth in § 79-6, and be submitted to the Board of Trustees no later than 15 working days prior to any public hearing thereon or 60 working days following referral of the application if no public hearing shall be held thereon.

H. The Board of Trustees and/or Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If held, such a hearing shall be held within 60 days of the official submission date. Notice of such hearing shall be given by the applicant to the owners of the adjacent or surrounding properties within 200 feet and proof of such notice shall be filed with the Board holding the public hearing. Notice of such hearing shall also be published at least five days prior to the date of such hearing in the official newspaper of the Village by the Village Clerk, and the cost of such application shall be paid by the applicant prior to the hearing.

- I. The Board of Trustees shall approve, approve with conditions or disapprove any such site plan within 30 days following the close of the public hearing or if no hearing is held, within 60 days of the official submission date. These time periods may be extended with the consent of the applicant. In reviewing the application, the Board of Trustees shall request that the applicant make revisions which the Board of Trustees deems necessary to ensure that the proposed development will conform to the intent and requirements of this chapter. If the Board of Trustees disapproves the application, within 10 working days of its decision, it shall give the applicant a written decision setting forth the reasons for the disapproval and deliver a copy of the decision to the Building Inspector for the permanent building file and an additional copy to the Planning Board. If, after its review, the Planning Board unanimously recommended disapproval of the submitted plan, to approve the site plan the Board of Trustees must vote by at least a majority plus one to approve the plan.
- J. An application for an amendment to a previously approved site plan shall be acted upon in the same manner as the application for approval of the original site plan.
- K. Performance bond.
- (1) Following approval of the site plan by the approval authority, in addition to any other fees required by the Village of Pelham, the applicant shall file with the Village Clerk a performance bond in which the Village is named as obligee in an amount set by the Building Inspector sufficient to cover the full cost of all required work, planting, and improvements. If the value of the work, planting, and improvements required in the final site plan approved by the Board of Trustees is less than \$10,000, the Building Inspector, with the concurrence of approval authority, may waive the bonding requirements.
 - (2) A performance bond shall be in a form satisfactory to the Village Attorney and may be in the form of surety company bonds. The performance bond may be required to cover any work specified in the site plan, including but not limited to, stormwater drainage systems; streets and lighting; off-street parking and loading areas; means of vehicular access and egress to and from the site onto public streets; recreation areas, including playgrounds; garbage collection stations; fire alarm systems; proposed screening and landscaping; and at the discretion of the approval authority, the planting and maintenance of such screening and landscaping for a minimum of one year and a maximum of three years. Said bonds shall be conditioned upon the property owner or developer completing all the work set forth on the approved site plan in a matter satisfactory to the Building Inspector and upon the proper functioning of all work for a period of one year following its completion.
 - (3) In case of default, the performance bond shall be forfeited to the Village, and the Village shall use the proceeds to do any or all of the following: to complete any incomplete portions of the required work, planting and improvements, to make repairs or corrections necessary to ensure the proper functioning of the work and

improvements, and to maintain the required plantings. Any moneys in excess of that necessary for completing, repairing, and/or correcting such work and/or maintaining said plantings will be returned to the surety. Said surety bond may be reduced by the Building Inspector upon certification to the approval authority that one or more of the particular items required by the approval authority has been satisfactorily completed, and is functioning properly and that in its reduced amount the bond is sufficient to cover the full cost of the remainder of the required work, planting and improvements.

- (4) The installation of all required improvements shall be under the direct supervision of a registered architect or licensed engineer, unless this requirement is waived in writing by the Building Inspector.

§ 79-8. Time limit on validity of approval.

Unless a building permit is obtained within 120 days of the date of approval of the site plan, such approval shall become null and void. Upon application and for good reason shown, the approval authority may extend the validity of the approval by no more than two consecutive one-hundred-twenty-day periods from the date of original approval.

§ 79-9. Submission requirements.

The information to be submitted and which, in total, constitutes a site plan, is listed below. All maps must be at a scale of not less than 30 feet to the inch.

A. Legal data.

- (1) The lot, block, section number, street, street number of the property and the names of all owners of record of adjacent properties located within 200 feet of the extreme limits of the subject property, all as shown on the Village's official assessment maps.
- (2) A current survey of the boundaries of the property tied to at least two permanent monuments not less than 300 feet apart showing all lengths in feet and decimals of a foot and all angles given to the nearest minute or closer if deemed necessary by the surveyor so that the error of closure will not exceed 1:10,000.
- (3) The location of all required building or setback lines and lines of existing streets and lots as shown on the Village's official assessment maps. Any relevant existing deed restrictions or covenants, reservations, easements and areas dedicated to public use, if known, shall be noted.
- (4) A map showing the area within 500 feet from the perimeter of the site, at a scale of not more than 50 feet to the inch, showing:
 - (a) Existing zoning and special district boundaries; and

- (b) Location of traffic safety devices and directional flow of traffic.
- (5) The location of all existing structures on the subject lot and on all lots having a common boundary therewith.
- (6) A copy of any proposed covenants or deed restrictions that are intended to cover all or any part of the tract.
- (7) Location of existing water mains, culverts and drains on or serving the property, with pipe sizes, grades and direction of flow.

B. Topographic data.

- (1) Existing contours and proposed grade elevations at intervals of two feet or less, referred to a datum satisfactory to the Board, showing retaining walls, if any, and methods to be used to retain, stabilize or replant regraded areas.
- (2) Location of existing watercourses, wetland areas, intermittent streams, wooded areas, rock outcrops, single trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and other significant existing features.

C. Development data.

- (1) Title of development, date, North point, scale, name and address of record owner or owner or of the individuals holding the controlling interest if the owner is a corporation; and the name and address of the engineer, architect, land planner or surveyor preparing the site plan.
- (2) The proposed use or uses of land and buildings and location, height and design of all existing and proposed buildings. Any proposed subdivision of the property and any division of any building or structure into units of separate occupancy shall also be shown.
- (3) All means of vehicular ingress and egress to and from the site onto public streets and the location of all existing and proposed public and private roads, drives and walkways on the site.
- (4) The location and layout of all proposed off-street parking and loading areas.
- (5) The location and intended use of any proposed outdoor storage area.
- (6) The proposed method of storage and disposal of solid waste.

- (7) The size and location of all proposed waterlines, valves and hydrants and all sewer lines or of alternative means of water supply and sewage disposal and treatment.
- (8) The location, direction, intensity and time of operation of proposed outdoor lighting.
- (9) The location, dimensions and design of all existing and proposed signs.
- (10) A planting plan, prepared by a qualified landscape architect, showing all existing and proposed screening and landscaping, fences or dividers.
- (11) The proposed stormwater drainage system and associated calculations, prepared by a licensed professional engineer and furnished under his seal.
- (12) Any proposed easements and public areas.
- (13) Building materials to be used on all structures and landscaping.
- (14) Current photographs of the site showing adjacent properties.
- (15) Elevation of adjacent properties.
- (16) The construction schedule, staging information, mechanical equipment to be used, and screening for the construction site.

D. Financial data.

- (1) Current taxes on the site.
- (2) Proposed taxes after site improvement.
- (3) Current employment and/or occupancy on the improved site.
- (4) Projected employment and/or occupancy on the improved site.

§ 79-10. Conflict with other Village laws.

In the event that this chapter conflicts or is inconsistent with any other Village law, the more comprehensive or strict requirements shall apply.

§ 79-11. Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

SECTION 2.

Section 98-4 of the Code of the Village of Pelham is repealed, and the following new Section 98-4 is adopted:

§ 98-4. Site plan approval required.

In addition to complying with all the provisions of this chapter, the types of development or use set forth below shall require site plan approval by the Village of Pelham in accordance with Chapter 79 of the Code of the Village of Pelham:

- A. The erection of any building in a non-residential district.
- B. The erection of any building for a principal use in a residential district
- C. The erection of any permitted accessory building which is located in a residential district and has a building area of more than 275 square feet.
- D. The enlargement of any residential building that results in the expansion of living space, as defined by the NYS Building Code, by more than 35% or 750 square feet..
- E. The substantial alteration or modification of land from its natural state, whether by regrading or the addition of structures other than buildings.
- F. Any change in the use or intensity of the use of premises which will require a modification of existing means of ingress or egress, parking or loading facilities, drainage, utilities, landscaping, screening or outdoor lighting unless the work is performed pursuant to a previously approved site plan that is still valid. Excluded from review under this Chapter are changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which are regulated by Chapter 77.
- G. Any alteration or modification of a building in a non-residential district with the following exceptions:
 - 1. Work performed pursuant to a previously approved site plan that is still valid;
 - 2. Repainting of a previously painted exterior surface;
 - 3. Replacement of any window or door with one that has the same style, size and location;

4. Maintenance of an exterior surface of brick or stone work, stucco, steps or platforms, wood shingles, trim and other protective finishes, but not the replacement of exterior surface finishes that result in change of the material of the exterior surface, of the finishes or of the design; and
 5. Pointing of brick or stone work and measures to prevent the entry of water into a building that do not require covering any portion of the existing design features or the exterior surface materials.
 5. Changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which must be approved by the Architectural Review Board pursuant to Chapter 77.
- H. Creation of a driveway.
- I. Installation of an in-ground pool.

SECTION 3. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.