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

County
~~XXX~~ of ONTARIO
~~XXX~~
~~XXXXXX~~

Local Law No. (~~Intro~~) 3 of the year 1977

A local law PURSUANT TO ARTICLE 8 OF THE NEW YORK STATE ENVIRONMENTAL

(~~insert title~~)
CONSERVATION LAW PROVIDING FOR ENVIRONMENTAL QUALITY REVIEW
OF ACTIONS WHICH MAY HAVE A SIGNIFICANT EFFECT ON THE EN-
VIRONMENT.

Be it enacted by the BOARD OF SUPERVISORS of the
(Name of Legislative Body)

County
~~XXX~~ of ONTARIO, NEW YORK as follows:
~~Town~~
~~Village~~

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SECTION I: TITLE

This law shall be known as the Environmental Quality Review Law of Ontario County.

SECTION II: PURPOSE AND INTENT

It is the purpose of this local law to establish procedures whereby County agencies and the Board of Supervisors, in coordination with municipal governments, may implement at the local level Article 8 of the New York State Environmental Conservation Law. It is the intent that actions by the Board of Supervisors and county agencies be consistent with the need for maintaining a high-quality environment in the county. It is also the intent that in reaching decisions on proposed actions the Board of Supervisors and county agencies will consider social and economic factors together with environmental

factors. Finally, it is the intent that county agencies consolidate and coordinate existing multiple review procedures, while meeting the provisions of this local law, so that delay is minimized and time and money are saved.

SECTION III: DEFINITIONS

The terms and their derivatives used in this local law shall have the meanings given below.

1. Unless the context shall otherwise require, the terms and their derivatives used in this local law shall have the same meaning as those defined in section 8-0105 of the New York State Environmental Conservation Law and Part 617 of Title 6 NYCRR.
2. "County" shall mean the county of Ontario.
3. "County agency" shall mean any county department, agency, board, authority, commission, officer, employee, or body.
4. "Applicant for a county permit" shall mean any agency, individual, corporation, governmental entity, partnership, association, trustee, or other legal entity which must under law apply to a county agency to obtain a permit, approval advisory report, or other form of review on a proposed action.
5. "County agency initiating an action" shall mean any county agency which prepares or sets forth a proposal for an action, including the following actions: land acquisition; construction activities; planning activities such as the proposing of master plans, regulations, and development plans; and policy-making activities such as the establishment of rules, regulations, and guidelines.
6. "County agency having jurisdiction" shall mean the agency which is so designated by the Board of Supervisors as recommended by its Planning Committee except that where there is only one county agency with jurisdiction on a proposal by an applicant for a county permit, that agency shall be the "county agency having jurisdiction."
7. "County lead agency" shall mean the following:
 - (a) Where a county agency is the only agency with jurisdiction on a proposal by an applicant for county permit, "county lead agency" shall mean that agency.
 - (b) Where a county agency is designated as the lead agency pursuant to section VII.1. of this local law, "county lead agency" shall mean that agency.
 - (c) For proposals by a county agency initiating an action, "county lead agency" shall mean the agency which is so

designated by the Board of Supervisors, as recommended by its Planning Committee.

SECTION IV: ACTIONS COVERED BY AND EXEMPTED FROM THIS LOCAL LAW

1. No decision to carry out or approve an action shall be made by the Board of Supervisors or by a county agency until there has been full compliance with all requirements of this local law and Part 617 of Title 6 NYCRR. The following actions and activities, however, shall be exempt from such requirements:

- (a) Actions listed as Type II actions in section IV.3 of this local law and section 617.12 of 6 NYCRR.
 - (b) Actions defined as exempt actions in section 617.13 of 6 NYCRR.
 - (c) Actions undertaken or approved prior to the dates specified in Article 8 of the environmental conservation law for local agencies shall be exempt from this local law and the provisions of Article 8 of the environmental conservation law and Part 617 of Title 6 NYCRR, provided, however, that if after such dates the County agency having jurisdiction modifies an action undertaken or approved prior to that date and the county agency having jurisdiction determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this local law and Part 617 of Title 6 NYCRR. Actions by applicants for county permits shall be considered undertaken or approved if all the required county permits, approvals, or advisory reports have been issued.
 - (d) The conducting of studies and preliminary planning and budgeting necessary to the formulation of a proposal for an action.
 - (e) The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle the applicant to commence the action until all requirements of this local law and Part 617 of Title 6 NYCRR have been fulfilled.
2. The following actions, in addition to those listed in section 617.12 of Title 6 NYCRR as Type I actions, are considered as Type I actions which are likely to have a significant effect on the environment:

- (a) Construction, reconstruction, or expansion of any county roads, highways, or bridges which would
- (i) increase the number of travel lanes except as provided for in Section IV.3.(f),
 - (ii) involve significant changes to existing drainage patterns.
- (b) Construction or expansion by more than 50% of the following county facilities:
- (i) airport facilities, including buildings, runways, parking areas, or any combination of these facilities,
 - (ii) Public institutions and facilities, including hospitals, nursing homes, health-related buildings, laboratories, major office centers, jails and other detention facilities, government buildings, pumping stations, and collector sewers,
 - (iii) sanitary landfills for more than 100,000 cubic yards per year of waste fill,
 - (iv) sanitary landfills for hazardous wastes or industrial wastes,
 - (v) solid waste transfer stations,
 - (vi) sewage treatment facilities, or
 - (vii) major recreational facilities.
- (c) Construction or expansion by more than 25% of any development project or facility which is, at least in part, located within a freshwater wetland.
- (d) Construction of any residential subdivisions which cumulatively result, for a given parcel owner, in:
- (i) at least five (5) residential lots in an area where slopes exceed fifteen percent (15%) grade,
 - (ii) at least ten (10) residential lots in an area designated as an agricultural district.
- (e) Construction or expansion by more than 50% of commercial or industrial facilities whose total gross floor area, whether in a single structure or in more than one structure, exceeds 500,000 square feet, unless the facilities are to be located at least in part within a designated agricultural district or within a 100-year floodplain.

In these latter instances, all proposed new commercial or industrial constructions and all proposed expansions of greater than 25% are included.

3. Type II actions or classes of actions have been determined not to have a significant impact on the environment and are exempt from all the requirements of this local law, unless the county agency having jurisdiction determines that a particular action may have a significant impact on a critical area designated in item 617.12(a) (22) of 6 NYCRR 617, an area where slopes exceed fifteen percent (15%) or within a designated agricultural district. No individual action shall be considered a Type II action if it would be located in a particularly sensitive environmental area where an otherwise insignificant impact could become significant, as determined by the county agency having jurisdiction. The following actions, in addition to those listed in Section 617.12 of Title 6 NYCRR as Type II actions, are considered as Type II actions:

- (a) Development of residential subdivisions consisting of ten (10) or fewer units, which are to be located in areas properly zoned for this use;
- (b) Actions involving area, setback and other dimensional variances.
- (c) Actions involving use variances rezoning requests where such actions would affect less than five acres of land.
- (d) Construction, reconstruction, replacement, or alteration of
 - (i) such recreational structures and facilities as labor centers, park shelters, picnicking sites, golf greens, bandshells, and arboretums;
 - (ii) building exteriors where the building is not located within 500 feet of a site or building listed on the National Registry of Historic Places;
 - (iii) drainage culvert extensions
- (e) Maintenance and minor improvement activities by county agencies including:
 - (i) for existing highways, the following activities: providing signalling devices, turning lanes, curbs and sidewalks; repairing potholes; cleaning ditches; controlling snow and ice; resurfacing; shoulder repair; sign maintenance; highway markings; brush and weed control; roadside mowing; and painting of bridges;

- (ii) for buildings and grounds, the following activities: lawn mowing, tree trimming, interior and exterior remodelling, landscaping, and resurfacing of parking areas;
- (f) The reconstruction, betterment, and spot improvement of county roads, where such activities will not add a travel lane for more than 500 feet, and will not significantly change existing drainage and where such activities are not located within 500 feet of a site or building located on the National Registry of Historic Places.
- (g) Routine issuing of permits and certificates by county agencies, which activities will not change existing environmental conditions, such as, but not limited to permits for campsites, temporary mass gatherings, and food service establishments and certificates for births, deaths, and mortgages; and land fill use permits and sewer permits;

(h) Routine licensing and inspection activities by county agencies.

4. Because of the complex and varied nature of actions, the Type I and Type II lists in this section are not all inclusive. The omission of an action from the lists does not mean that the action is automatically exempt from this part, nor does it mean that it is automatically an action requiring environmental impact statement preparation. The criteria set forth in Section 617.9 of Title 6 NYCRR and the criteria included in agency procedures under Section 617.10 of Title 6 NYCRR shall be used, together with additional criteria set forth at a later date by the county agency having jurisdiction, to determine significance with respect to Type I and Type II actions not so listed in this Section.

SECTION V: INITIAL INTAKE PROCEDURE

1. To assist in the determination of whether an action may or may not have a significant effect on the environment, county agencies initiating actions and applicants for county permits shall submit to the county agency having jurisdiction an application which includes the following items:

- (a) a complete Environmental Assessment Form (EAF), as prescribed by the Board of Supervisors as recommended by its Planning Committee. A complete EAF shall contain

the name of the applicant for a county permit or the name of the county agency initiating an action; the location of real property affected, if any; a description of the proposed action; and such other information as shall be required in the prescribed form.

(b) drawings, sketches, maps, and such other explanatory material as may be required by the county agency having jurisdiction.

(c) At the discretion of the applicant for a county permit or the county agency initiating an action, a detailed statement of the reasons why a proposed action may or may not have a significant effect on the environment.

2. Where an action is proposed by an applicant for a county permit, the applicant shall submit the application not only to the county agency having jurisdiction but also to each county agency which is required to issue a permit, approval, advisory report, or other form of review on the application.

SECTION VI: INITIAL EVALUATION

1. Upon receipt of a complete application, the county agency having jurisdiction may cause a notice to be published in a newspaper having general circulation within the county, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the agency no later than a date specified in such notice, which date will allow a response period of at least ten (10) days.

2. (a) The county agency having jurisdiction shall render a written determination on such application within 15 days following receipt of a complete application unless this period is extended by mutual agreement of the county agency having jurisdiction and the applicant for a county permit or the county agency initiating an action. The determination shall state whether such proposed action may or may not have significant effect on the environment.

(b) The time limitations provided in this local law shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinances, or regulations of the county and municipalities within the county.

3. If the county agency having jurisdiction determines that, based on the application and on the criteria set forth in Section 617.9 of Title 6, NYCRR, a proposed action will not have a significant effect on the environment, that agency shall prepare, file, and circulate such determination as provided in section 617.7 (b) of Title 6, NYCRR. Thereafter, the proposed action may be processed without further regard to this local law. If the county agency having jurisdiction determines that the proposed action may have a significant effect on the environment, it shall inform the applicant for a county permit or county agency initiating an action of the determination and shall prepare, file, and circulate such determination as provided in 617.7 (b) of Title 6 NYCRR. Thereafter, the proposed action shall be reviewed and processed in accordance with the provisions of this local law and Part 617 of Title 6 NYCRR.

SECTION VII: PROCEDURE FOR DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

Following a determination that the proposed action may have a significant effect on the environment, the county agency having jurisdiction shall immediately notify the applicant for a county permit, or the county agency initiating an action, in writing of its determination. The following procedures shall apply.

1. Procedures for Applicants for County Permits: When the applicant prepares the issuance of a permit, approval, advisory report, or other form of review by more than one agency, all involved agencies shall, to the fullest extent possible, coordinate their environmental reviews through a designated lead agency to the end that all requirements are met by a single DEIS, a single final environmental impact statement, if necessary, and, if conducted and practicable, a single hearing process.

(a) Upon receipt of a complete application for an action which a county agency having jurisdiction determines may have a significant effect on the environment, the agency shall immediately notify all other agencies which may be involved in the proposed action and request full coordination of the environmental review of such action. A lead agency shall be designated within a specified number of days following the filing of a complete

(b) If a conflict

arises between (or among) two or more agencies, as to which agency is the lead agency, the

agencies shall resolve the question themselves and designate a lead agency, in writing, on the basis of the following five criteria:

- (i) the agency to first act on the proposed action;
 - (ii) a determination of which agency has the greatest responsibility for supervising or approving the action as a whole;
 - (iii) a determination of which agency has more general governmental powers as compared to single or limited powers or purposes;
 - (iv) a determination of which agency has the greatest capability for providing the most thorough environmental assessment of the action; and
 - (v) a determination of whether the anticipated impacts of the action being considered are primarily of statewide, regional, or local concern; e.g., if such impacts are primarily of local concern, the local agency should be the lead agency.
- (c) If such agencies are unable to resolve the question within the prescribed 30-day period, they shall submit the question in writing form to the New York State Commissioner of Environmental Conservation, who shall, within five (5) business days, on the basis of the criteria specified above, designate the lead agency.
- (d) In the case where there is a county lead agency, that agency shall immediately notify the applicant in writing that it is the lead agency and shall request the applicant to prepare a DEIS. If the applicant should decide not to prepare a DEIS, the county lead agency may in its discretion notify the applicant that the processing of the application will cease and that no approval will be issued.
- (e) Other county agencies involved in the action shall have no further obligations under 617 Title 6 NYCRR with respect to the action being considered except: (1) to provide their views where appropriate and, to the extent practical, appropriate technical analysis

and support; and (2) not to issue a permit on or approve of the application until the procedures set forth in sections 617.7 and 617.8 of Title 6 NYCRR have been completed.

2. Procedures for Actions Initiated by County Agencies: In the case of an action initiated by a county agency, that county agency shall prepare a DEIS and submit it to the county lead agency for review. If the county agency initiating an action should decide not to prepare a DEIS, the county lead agency shall submit in writing to the county agency initiating the action and to the Board of Supervisors a recommendation that the action not be undertaken until conformance with the DEIS requirement and all other requirements of this local law has been obtained.

3. Process for all Actions:

(a) Within ten (10) days of the completion of a DEIS, a Notice of Completion will be prepared, filed, and circulated by the county lead agency as provided in Section 617.7 (e) and (f) of Title 6 NYCRR. The Notice shall contain the information specified in Section 617.7 (d) of Title 6 NYCRR. The county lead agency may also cause a Notice of Completion of the DEIS to be published in a newspaper having general circulation within the county.

(b) Public Hearing: If the county lead agency determines to hold a public hearing on a DEIS, notice thereof shall be filed, circulated, and sent in the same manner as the Notice of Completion and shall be published in a newspaper having general circulation within the county at least ten (10) days prior to such public hearing. Such notice shall also state the place where substantive written comments on the DEIS may be sent and the date before which such comments shall be received. The hearing shall commence no less than 15 nor more than 60 days of the filing of the DEIS, except where the county lead agency determines that additional time is necessary for the public or other agency review of the DEIS, or where a different hearing date is required under other applicable laws.

(c) Where, on the basis of a DEIS or a public hearing, the county lead agency determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard

to this local law. The determination of significant effect shall be made within 15 days of the submission of a complete DEIS or the completion of the public hearing thereon.

SECTION VIII: PROCEDURE FOR FINAL ENVIRONMENTAL IMPACT STATEMENT (EIS)

1. The county lead agency shall cause to be prepared by the applicant for a county permit, or by the county agency initiating an action, an EIS in accordance with the provisions of Part 617 of Title 6 NYCRR.
2. Such EIS shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the DEIS, whichever last occurs, provided, however, that the county lead agency may extend this time where such is necessary to complete the statement adequately or where problems indentified with the proposed action require material reconsideration or modification.
3. Within ten (10) days of the submittal of a complete EIS, the county lead agency shall prepare and file a Notice of Completion in the same manner as provided in Section VII of this local law, and shall send such notice to all persons to whom the Notice of Completion of the DEIS was sent. Copies of the EIS shall be filed and made available for review in the same manner as the DEIS.
4. No decision to carry out or approve an action which has been made the subject of an EIS shall be made until after the filing and consideration of the EIS. A decision on whether or not to approve the action shall be made by the county lead agency within thirty (30) days of the filing of the EIS. If an applicant for a county permit should decide not to prepare an EIS, the county lead agency may, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. If the county agency initiating the action should decide not to prepare an EIS, the county lead agency shall submit to the county agency initiating the action and to the Board of Supervisors a recommendation in writing that the action not be undertaken until conformance with the EIS requirement and all other requirements of this local law has been obtained.
5. When the county lead agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:

- (a) Consistent with social, economic, and other essential considerations of state and county policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
- (b) all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.
6. For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

SECTION IX: MISCELLANEOUS PROVISIONS

1. The county shall maintain files open for public inspection of all Notices of Completion, draft and final environmental impact statements and written determination prepared or caused to be prepared by a county agency.
2. Severability: If any section of this law or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances, and to this end the provision of each section of this law are hereby declared to be severable.

SECTION X: FEES

The following fee schedule shall be applied by the county in order to partially recover the costs of carrying out this local law.

1. Where a county agency is initiating an action, there shall be no fee charged.
2. Where a proposed action is by an applicant for a county permit, the fees charged, not to exceed the limitations contained in Section 617.11 of 6 NYCRR, shall be as follows:

- (a) When a complete application which includes an EAF is submitted for review and determination to the county agency having jurisdiction, the fee charged shall be twenty-five dollars (\$25).

- (b) When A DEIS is submitted for review and determination to a county lead agency, the fee charged shall be fifty dollars (\$50).
- (c) for actions which are found to require a public hearing after the submission of a DEIS, and the public hearing is conducted by a county lead agency, the fee charged shall be equal to the total cost of the newspaper notifications thereon.
- (d) When an EIS is submitted for review and determination to county lead agency, the fee charged shall be fifty dollars (\$50).

SECTION XI: EFFECTIVE DATES

This local law shall become effective upon filing in the office of the Secretary of State as prescribed by Section 27 of the Municipal Home Rule Law. Sections of this law which apply to county agencies initiating actions shall take effect on June 1, 1977. Sections of this law which apply to applicants for county permits shall take effect on September 1, 1977.