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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.

Town of Farmington, Ontario County, New York

Local Law no. 8 of the year 2023

A local law amending Chapter 9 of the Town Code of the Town of Farmington, Ontario County, New York, entitled "Boards, Committees and Commissions," by adding Article VI, "Zoning Board of Appeals (ZBA);" and Chapter 165 of the Town Code of the Town of Farmington, Ontario County, New York, entitled "Zoning," Article II, Section 9, Word usage; administrative terms and Section 10, Definitions.

Be it enacted by the Town Board of the

Town of Farmington as follows:

Section 1: Chapter 9, Article VI, of the Town Code of the Town of Farmington to be entitled "Zoning Board of Appeals (ZBA)," is hereby established and shall read in its' entirety as provided for within this Local Law as follows:

§9-54. Title.

This Article shall be known as Chapter 9, Boards, Committees and Commissions, Article VI, Sections 9-54 through 9-65, and is entitled the "Town of Farmington Zoning Board of Appeals (ZBA), Duties and Responsibilities."

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§9-55. Purpose.

The purpose of the Town of Farmington Zoning Board of Appeals (ZBA) is hereby established to:

- A. Administer the provisions of Article 16, §§ 267, 267-A, 267-B, 267-C, 268, 269, 274-A. 3, 280 and 280-A New York State Town Law; and
- B. Administer the provisions contained in Chapter 87, entitled "Flood Damage Prevention," Article VI, Variance Procedure, Sections 16 and 17; and
- C. Administer the provisions of Chapter 165 (Articles II, IV through X) of the Town of Farmington Town Code, as further specified therein; and
- D. Administer the applicable provisions within article 8 of the New York State Environmental Conservation Law (ECL); and
- E. Establish and maintain effective communications with the various Town Boards, Committees and Commissions; and
- F. To identify specific goals, objectives and implementation actions contained in the latest edition of the adopted Town of Farmington Comprehensive Plan; and
- G. To recommend appropriate land use regulations for the community to be contained in the Town Code of Farmington Town Code.

§9-56. Intent.

The intent of these regulations is to identify the Town of Farmington Zoning Board of Appeals (ZBA), established by Town Board Resolution dated July 15, 1957, is hereby further amended to provide information and service to the residents of the Town, the Town Board, Town Planning Board, Town Environmental Conservation Board, the Town Agriculture Advisory Committee, the New York State Department of State, the Ontario County Department of planning, the Ontario County Planning Board, the New York

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State Department of Environmental Conservation, the New York State Department of Agriculture and Markets, the New York State Department of Health and the Federal Emergency Management Agency (FEMA) on issues relating to sustaining, promoting, and identifying land use and related needs within the Town which protect the health, safety and welfare of the community.

§9-57. Function of the Town Zoning Board of Appeals (ZBA). The function of the Town Zoning Board of Appeals includes but is not limited to the following:

- A. To receive applications and to hear appeals upon an interpretation, decision or determination provided by the Town Code Enforcement Officer that would enable an application for an area variance to be made to the Zoning Board of Appeals pursuant to section two hundred sixty-seven-b. 1. (§267-b.1.) of the New York State Town Law; and
- B. To receive applications and to hear appeals upon an interpretation, decision or determination provided by the Town Code Enforcement Officer that would enable an application for a use area variance to be made to the Zoning Board of Appeals pursuant to section two hundred sixty-seven-b. 2. (§267-b.2.) of the New York State Town Law; and
- C. To receive applications and to hear appeals upon an interpretation, decision or determination provided by the Town Code Enforcement Officer, or the Town Planning Board, that would enable an application for an area variance to be made to the Zoning Board of appeals pursuant to section two hundred seventy-four a. 3. (§274-a. 3.) of the New York State Town Law. A Decision rendered upon a requested area variance pending as part of an action before the Town of Farmington Planning Board for either preliminary subdivision plat approval or preliminary site plan approval, shall only be made by the Zoning Board of appeals after having received an application therefore from the Town Code Enforcement Officer and either a report, a recommendation, or a preliminary resolution of approval with condition(s) from the Town of

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Farmington Planning Board. No ZBA decision upon a requested area variance may overrule an authorized review of either of the two above referenced actions (Preliminary Subdivision Plat or Preliminary Site Plan) that have been approved with condition(s) by the Town of Farmington Planning Board.

- D. To receive applications of appeal upon an interpretation, decision or determination to the provisions of Chapter 165, Article VIII, Administration and Enforcement, Section 97 F. of the Town Code of the Town of Farmington; and/or
- E. To receive applications and to hear appeals upon an interpretation, decision or determination provided by the Town Code Enforcement Officer that would enable an application for a temporary use permit to be made to the Zoning Board of Appeals pursuant to Chapter 165, Article VIII, Administration and Enforcement, Section 91 of the Town Code of the Town of Farmington; and/or
- F. To administer the provisions contained within Chapter 165, Article VIII, Administration and Enforcement, Section 98 of the Town Code of the Town of Farmington; and
- G. To receive applications and to hear appeals upon an interpretation, decision or determination provided by the Town Code Enforcement Officer, acting in the capacity as the designated Local Administrator of the provisions contained within Chapter 87, Flood Damage Prevention, of the Town Code of the Town of Farmington, that would enable an application for an area variance to be made to the Zoning Board of Appeals pursuant to Chapter 87, Article VI, Variance Procedure, Sections 16 and 17 of the Town Code of the Town of Farmington; and/or
- H. To participate with members of the Town of Farmington Comprehensive Plan Update Committee during the public participation process involved with amendment to the latest edition of the "*Town of Farmington Comprehensive Plan;*" and

- I. To contribute to sustaining the established high standards for development that are part of the Town's ongoing planning program, its' reviews and decisions upon development projects, and related land use issues, by providing consistent and accountable services to the community, by granting the minimum relief determined necessary and appropriate by the ZBA when acting upon an area variance; and
- J. To advise the Town Board of concerns found within the Town Code Chapters identified above herein and to recommend amendments thereto; and
- K. To maintain training certification of each of its members by requiring at least the minimum number of hours established by the Town Board; and
- L. To advise and recommend to the Town Board, the Zoning Board of Appeals' (ZBA) needs for Annual Operating Budgets; and
- M. To seek legal and professional advice from established experts upon a matter pending before the Zoning Board of Appeal (ZBA) for its' review and action.

§9-58. Membership; terms of office; vacancies.

- A. There shall be five (5) members of the Town of Farmington Zoning Board of Appeals (ZBA) appointed by the Town Board.
- B. There may be one (1) Alternate Member to serve the needs of the Town of Farmington Zoning Board of Appeals (ZBA) appointed by the Town Board, as further provided for in Article 16, Section 267. (a), (b) and (c) of New York State Town Law.
- C. All members of the Town of Farmington Zoning Board of Appeals and any Alternate Member shall be residents of the Town of Farmington and at least 21 years of age.

- D. The Zoning Board of Appeals shall have the power and authority granted to it by the Town Board to employ experts and a clerk and to pay for their services; and to provide for such other appropriation that may be authorized therefor by the Town Board for the Zoning Board of Appeals.
- E. Town Board Members Ineligible. No person who is a member of the Town Board shall be eligible for membership on the Town Zoning Board of Appeals.
- F. Town Board Member Liaison. There shall be one (1) member of the Town Board assigned by the Town Board to serve as liaison to the Town Zoning Board of Appeals.
- G. Zoning Board of Appeals Membership. The terms of members of the ZBA shall be fixed so that the term of one member shall expire at the end of the calendar year in which such member was initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. The terms of all members shall expire at the end of the calendar year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Zoning Board of Appeals.
- H. Vacancies on the Zoning Board of Appeals. Any vacancy shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of the term of office shall be filled only for the remainder of the unexpired term.
- I. To be eligible for reappointment to the Zoning Board of Appeals, such member shall have completed the training requirements established by the Town Board.
- J. To be eligible for reappointment to the Zoning Board of Appeals, such member shall have participated in at least eighty percent (80%) of the scheduled meetings during said term of Office.

K. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law or resolution.

L. Members of the Zoning Board of Appeals shall serve with a stipend amount approved by the Town Board.

§9-59. Terms of members now in office.

Members now holding office for terms established shall upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be as specified in the above section.

§9-60. Officers and Zoning Board of Appeals Meeting Dates.

- A. The Zoning Board of Appeals, each year at its' Organizational Meeting, shall designate the date, time, and place of the Zoning Board of Appeals Meetings for said calendar year. The Town Board shall appoint the Zoning Board of Appeals Chairperson who shall serve a term that expires on December 31st of said calendar year.
- B. Once appointed the Zoning Board of Appeals Chairperson may appoint an Alternate Chairperson to serve in the Chairperson's absence. The Alternate Chairperson shall be appointed for a term that expires on December 31st of said calendar year.
- C. Additional meetings may be called by the Zoning Board of Appeals Chairperson as needed.

§9-61. Zoning Board of Appeals Meetings.

- A. All Zoning Board of Appeals Meetings shall be public meetings subject to the provisions of the New York State Open Meetings Law and the public meeting policies established by the Farmington Town Board.
- B. A majority of the Zoning Board of Appeals members shall be present in order to convene a meeting.
- C. All ZBA meetings, including public hearings and workshops, shall be conducted in accordance with the Rules of Procedure adopted each year by the Zoning Board of Appeals.
- D. The Zoning Board of Appeals may conduct workshop sessions to discuss matters of concern to its members. Said workshops shall be advertised in the Town's Official Newspaper, posted on the Town Hall Bulletin Board and on the Town's website. Minutes of all workshops shall be approved by the Zoning Board of Appeals and filed with the Town Clerk's Office.
- E. All deliberations and decisions made by the Zoning Board of Appeals shall be only in a scheduled public session.
- F. No public hearing before the Zoning Board of Appeals shall be closed until it can be determined by the Board's Chairperson that all the public comments have been received by those in attendance in the meeting room and those individuals participating on-line and only after there is a motion made and seconded by members of the Zoning Board of Appeals and a voice vote to close the public hearing.

- G. At any point during a public hearing upon an application a member of the Zoning Board of Appeals deems it to be appropriate, they may move to table any further discussion on the matter and to continue the public hearing to a specific date and time. Once a second to this motion is received, the Chairperson shall take a roll call vote on the motion. A majority vote of the Board shall be required to stay any further deliberations and continue the public hearing.
- H. Any continued application shall be heard first at the next scheduled meeting prior to opening a new public hearing upon a new application. Once the public hearing is closed the Zoning Board of Appeals may act upon the matter under review before proceeding to new meeting agenda items.
- I. The Zoning Board of Appeals (ZBA) shall decide upon the appeal within sixty-two (62) days after the conduct (close) of said hearing. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the board.

§9-62. Zoning Board of Appeals (ZBA) Rules of Procedure.

Each year, the ZBA shall review, amend as necessary and adopt Rules of Procedure for conducting public meetings. Once adopted by ZBA Resolution, said Rules of Procedure shall be filed with the Town Clerk's Office. Said adopted Rules of Procedure shall remain in effect until replaced the following year by ZBA action. The adopted Rules of Procedure shall be maintained on the town's website.

§9-63. Zoning Board of Appeals (ZBA) Review Process.

Any matter referred to the Zoning Board of Appeals (ZBA) for possible review and consideration shall be transmitted in written form to all members of said board as soon as may be practical by another referring board and/or by the Director of Planning and Development, the Town Code Enforcement Officer or Town Attorney, as the case may be. If the referral is reasonably determined to require the review of the ZBA, the Chairperson shall convene a meeting

of said board and render its opinion or response to said referral prior to the scheduled date of the referring board's meeting on the matter. With the advice and consent of a majority of the ZBA members not to render a formal review, the Chairperson shall so notify the referring body. Such notification shall be deemed to have discharged the responsibility of the ZBA to act on such referral.

9-64. Quorum.

A quorum for meeting of the Zoning Board of Appeals (ZBA) shall be three (3) members participating in person. The ZBA is hereby deemed a public body for the purposes of Article 7 of the New York State Public Officers Law.

§9-65. Zoning Board of Appeals (ZBA) Reports.

The ZBA may submit an annual report to the Town Board not later than ten (10) business days following the ZBA's Organizational Meeting of each year, concerning the activities and work of the ZBA during the previous year and that planned for the coming year.

Section 2: Chapter 165, Article II, Section 9, Word usage; administrative terms, is hereby further amended by adding the following Administrative Terms that are to be inserted in alphabetical order:

CLERK OF THE BOARD

The officials appointed by the Town Board to take meeting minutes of all Planning Board, Zoning Board of Appeals, Environmental Conservation Board, Recreation Advisory Board and Agriculture Advisory Committee Meetings and Resolutions acted upon, that are filed with the Town Clerk's Office. Upon request of the Town Board or the Director of Planning and Development, said officials may also serve as the Clerk of Advisory Committees created by the Town Board. Said officials may be required to prepare meeting notices, legal notices, take attendance at meetings, circulate draft resolutions, certify the meeting minutes and resolutions, prepare abstracts as requested by

Town Staff, keep tapes of said public meetings and prepare memos for the Chairpersons of said Boards or Committees. Any salary for said position(s) shall be established by the Town Board.

SECRETARY OF THE BOARD

The term as used in the Town Code refers to the Clerk of the Board as defined above herein.

BUILDING DEPARTMENT

The term as used in the Town Code refers to the department of the Town charged by the Town Board with the enforcement of laws regulating the erection, construction, or alteration of buildings and structures. The Department administers the receiving and processing applications for building permits, appeals of interpretations, variances, scheduling inspection appointments, providing information and assistance to applicants and the public, coordinating Project Review Committee (PRC) meetings, coordinating pending applications for approvals by the Planning Board and the Zoning Board of Appeals, scheduling and administering inspections associated with site development and maintaining records on all site development.

DEVELOPMENT OFFICE

The office which provides direction over land use planning, management of natural resources, buildings and other permit and site development actions. The office coordinates the review of pending applications for approvals by the Town Board, the Planning Board, and the Zoning Board of Appeals. The office prepares legal notices, posts meeting agendas and draft resolutions to be acted upon. The office coordinates the review of all incentive zoning applications and drafts resolution for the Town Board and Planning Board. Provides Town documents for all State Environmental Quality Review (SEQR) classifications and determinations of significance for all projects submitted to the Town Board, Planning Board, or Zoning Board of Appeals.

DEVELOPMENT OFFICE ADMINISTRATOR -The term as used in the Town Code refers to the administrative duties of the person(s) receiving applications for building permits, appeals, variances, scheduling inspection appointments, providing information and assistance to applicants and the

public, coordinating Project Review Committee (PRC) agendas and meetings, coordinating pending applications for approvals by the Planning Board and the Zoning Board of Appeals, preparing legal notices, posting agendas and draft resolutions to be acted upon, and maintaining property records on all site development

Section 3: Chapter 165, Article II, Section 10, entitled Definitions is hereby further amended by adding the following definitions, that are to be inserted in alphabetical order:

AMENITY - Shall mean community benefits such as open space, housing for persons of low or moderate income, parks, trails, sidewalks, elder care, day care or other specific physical, social, or cultural amenities, or cash in lieu thereof, or benefit to the residents of the community authorized by the Town Board.

INCENTIVE - Adjustments by the Town Board to the permissible population's density, area, height, open space, use, or other provisions of Chapter 165 of the Town Code of the Town of Farmington for a specific purpose authorized by the Town Board.

Section 4: If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have been ordered.

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law number 8 of 2023, of the Town of Farmington, was duly passed by the Town Board on _____, 2023, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the Town of Farmington was duly passed by the _____ on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2023, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the Town of Farmington was duly passed by the Farmington Town Board on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by _____ on 2023. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 2023, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the Town of Farmington was duly passed by the Farmington Town Board on _____ 2023, and was (approved) (not approved) (repassed after disapproval) by the _____ on 2023. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2023, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 2023, became operative.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law number _____ of 2023 of the County of _____ State of New York, having been submitted to the electors at the General Election of November 2023, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law and was finally adopted in the manner indicated in paragraph 1 above.

Clerk of the Town

(Seal)

Date: _____