

ARTICLE 5: TRUMANSBURG VILLAGE ENVIRONMENTAL QUALITY REVIEW (VEQR)

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This law includes some areas that the Village Board wanted to highlight and other areas that the Board wanted to expand upon, but this law should be read and applied in conjunction with the New York Environmental Conservation Law and not separately. In the event of an inconsistency (actual or perceived) with SEQR, VEQR shall control, where that interpretation is otherwise lawful.

Section 501. Purpose of VEQR.

This Article was enacted by local law of the Village of Trumansburg pursuant to Section 8-0113 of the New York Environmental Conservation Law (ECL) to implement the provisions of the State Environmental Quality Review Act (SEQR), providing for environmental quality review of actions which may have a significant effect on the environment.

VEQR is designed to incorporate consideration of environmental factors into the existing planning, review and decision-making process in order to create an awareness of the role agencies play as stewards of the air, water, land and living resources. As such they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

It is the intention of SEQR and VEQR that a suitable balance of social economic, and environmental factors be incorporated into planning and decision-making processes. It is not the intention of SEQR or VEQR that environmental factors be the sole consideration in decision making.

Section 502. General Effect.

502.1 Review. SEQR and VEQR require the Village of Trumansburg to determine whether the actions it directly undertakes, funds, or approves may have a significant effect on the environment, and, if it is so determined, prepare or request preparation of an environmental impact statement.

502.2 Decisions. No decision to carry out, fund, or approve an action other than a Type II Action (see Section 617.5 of 6 NYCRR) shall be made by the Board of Trustees or by any other Village agency until there has been full compliance with all requirements of this local law and Part 617 of Title 6 NYCRR. (The State regulations implementing SEQR, hereinafter referred to as "SEQR Section 617.xx").

502.3 Assistance. Village agencies may seek the advice and assistance of other agencies, professional consultants, groups, and persons on SEQR/VEQR matters, including the following:

advice on preparation and review of Environmental Assessment Forms (EAFs);
recommendations on the significance or nonsignificance of actions;
preparation and review of Environmental Impact Statements (EISs) and
recommendations on the scope, adequacy, and contents of EISs;
preparation and filing of SEQR/VEQR notices and documents;
conduct of public hearings; and
recommendations to decision makers.

502.4 Fees. The Village may charge a fee to an applicant to recover the actual costs of preparing or reviewing the draft EIS, in accordance with SEQR Section 617.13.

Section 503. Special Terms and Definitions.

The special terms, phrases, words, and their derivatives used in the environmental review process are defined in Section 617.2, Part 617 of Title 6 NYCRR. See also Article 1 of this code. Among the special terms are the following:

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Actions include:

(a) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance, or condition of any natural resource or structure, that: are directly undertaken by an agency; or involve funding by an agency; or require one or more new or modified approvals from an agency or agencies; agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions; adoption of agency rules, regulations, and procedures, including local laws, codes, ordinances, executive orders, and resolutions that may affect the environment; and any combinations of the above.

Environment means the physical conditions which will be affected by a proposed action, including:

(a) land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic, or aesthetic significance, existing patterns of population concentration, distribution, or growth, existing community or neighborhood character, and human health.

Critical Environmental Area (CEA) means a specific geographic area designated by a state or local agency, having exceptional or unique characteristics that make the area environmentally important. Any Unlisted action located in a CEA must be treated as a Type I action by any involved agency.

The Village Board of Trustees may designate a specific geographic area within the Village as a critical environmental area (CEA). Designation of a CEA must be preceded by written public notice and a public hearing. See SEQR Section 617.14 (g)

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Section 504. **Initial Review of Actions Under SEQR.**

504.1 Classification. As early as possible in the Village's formulation of an action it proposes to undertake, or as soon as a Village agency receives an application for a funding or approval action, it shall do the following:

(a) Determine whether the action is subject to SEQR. If the action is a Type II Action, the action is not subject to SEQR/VEQR. See SEQR Section 617.5 for complete list.

Determine whether the action involves a Federal agency. If so, the provisions of SEQR Section 617.15 apply.

Determine whether the action may involve one or more other agencies. (If other agencies are involved see Section 505, Establishment of Lead Agency.)

Make a preliminary classification of an action as **Type I** or **Unlisted**, using the information available and comparing it with the thresholds set forth in Section 508 of this Article. Such preliminary classification will assist in determining whether a full EAF and coordinated review is necessary.

For all actions subject to SEQR/VEQR, determine whether a full or short EAF will be required.

504.2 Initiation of Full EAF (Environmental Assessment Form). For **Type I Actions**, a full EAF (see SEQR Section 617.20, Appendix A) must be used to determine the significance of such actions, unless a draft EIS has already been prepared.

(a) The project sponsor must complete Part 1 of the full EAF, including a list of all other involved agencies which the project sponsor has been able to identify, exercising all due diligence.

The lead agency is responsible for preparing Part 2 and, as needed, Part 3, of the full EAF.

504.3 Initiation of Short EAF. For **Unlisted Actions**, the short EAF (see SEQR Section

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617.20, Appendix C) must be used to determine the significance of such actions. However, an agency may instead use the full EAF for Unlisted actions if the short EAF would not provide the lead agency with sufficient information on which to base its determination of significance. The lead agency may require other information necessary to determine significance.

Section 505. Establishment of Lead Agency

The **Lead Agency** is the agency principally responsible for carrying out, funding, or approving an action. It is, therefore, the agency responsible

- (1) for determining whether an environmental impact statement is required in connection with the action, and
- (2) for the preparation and filing of the environmental impact statement if one is required.

If only one agency is involved in an action it is the Lead Agency. If more than one agency is responsible for carrying out, funding, or approving an action, refer to SEQR Section 617.6(b)(2).

Section 506. Determination of Significance of Type I or Unlisted Action.

For all Type I and Unlisted actions the lead agency making a determination of significance must:

- (a) consider the whole action, including parts of it which may be undertaken, funded, or approved by another involved agency;

review the EAF, in light of the criteria contained in Section 507 of this Article (see also SEQR Section 617.7(c)), and any other supporting information to identify the relevant areas of environmental concern; thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant effect on the environment; and

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set forth its determination of significance in a written form (in accordance with SEQR Section 617.7(b)(4)) containing a reasoned elaboration and providing reference to any supporting documentation:

- (i) To require an EIS for a proposed action (a Positive Declaration), the lead agency must determine that the action may include the potential for at least one significant environmental effect.
- (ii) To determine that an EIS will not be required for an action (a Negative Declaration), the lead agency shall determine either that there will be no environmental effect or that the identified environmental effects will not be significant. (Conditioned negative declarations may be made under certain circumstances: see SEQR Section 617.7(d)).

Section 507. Criteria for Determining Significance of Proposed Actions.

507.1 Indicators of Significant Effects. The following list is illustrative, not exhaustive. These criteria are considered indicators of significant effects on the environment:

- (a) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic, or noise levels;
 - (1) a substantial increase in solid waste production;
 - (2) a substantial increase in potential for erosion, flooding, leaching, or drainage problems;
- the removal or destruction of large quantities of vegetation or fauna;
 - (1) substantial interference with the movement of any resident or migratory fish or wildlife species;
 - (2) impacts on a significant habitat area;
 - (3) substantial adverse effects on a threatened or endangered species of animal or plant, or the habitat of such

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a species; or

(4) the impairment of the environmental characteristics of a Critical Environment Area as designated pursuant to SEQR Section 617.14(g).

(5) other significant adverse effects to natural resources;

(c) the encouraging or attracting of a large number of people to a place or places for more than seven (7) consecutive days compared to the number of people who would come to such place absent the action;

(d) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character; a major change in the use of either the quantity or type of energy;

the creation of a hazard to human health; a substantial change in the use, or intensity of use, of land including agricultural, open space, or recreational resources, or in its capacity to support existing uses;

the creation of a material demand for other actions which would result in one of the above consequences;

changes in two or more elements of the environment, no one of which has a significant effect on the environment, but when considered together result in a substantial adverse impact on the environment; or

two or more related actions undertaken, funded, or approved by an agency, none of which has or would have a significant effect on the environment, but when considered cumulatively, would meet one or more of the criteria in this section.

507.2 Likelihood of Consequence. For the purpose of determining whether an action will cause one of the foregoing consequences, the lead agency must consider reasonably related long-term, short-term, and cumulative effects, including other simultaneous or subsequent actions which are:

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(a) included in any long-range plan of which the action under consideration is a part;

(b) likely to be undertaken as a result thereof; or

(c) dependent thereon.

507.3 Significance of Consequence. The significance of a likely consequence, (i.e., whether it is material, substantial, large, or important) should be assessed in connection with:

(a) its setting (e.g., urban or rural);

(b) its probability of occurrence;

(c) its duration;

(d) its irreversibility;

(e) its geographic scope;

(f) its magnitude; and

(g) the number of people affected.

Section 508. Trumansburg List of Type I Actions.

Consistent with SEQR Section 617.4 (a)(2) the Village of Trumansburg has determined that the following actions, in addition to those listed in SEQR Section 617.4 are Type I Actions likely to have a significant effect on the Trumansburg environment. (For a list of Type II Actions see SEQR Section 617.5). The following actions are Type I if they are to be directly undertaken, funded, or approved by the Village Board of Trustees or other Village agency.

508.1 Amendment to or Variance of the Village Zoning Law. Any change that would authorize industrial or commercial development within a residential zone.

508.2 Amendment to the Zoning Map. Any amendment of the Village Zoning Map where potential build-out would meet or exceed one or more of the thresholds set forth in other sections of the Type I list.

508.3 Land Transfers. The acquisition, sale, lease, or other transfer of more than 2.5 acres of contiguous land by or to a state or local agency.

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508.4 Construction of Facilities - Size Limits.

Construction of new facilities or expansion of existing facilities or activities of the size or amount indicated below:

Residential subdivisions, apartments, mobile home parks, or planned unit developments for 5 or more lots or housing units.

508.5 Construction, Expansion or Demolition of Facilities - Threshold Limits.

Construction of new nonresidential facilities that meets or exceed any of the following thresholds; or, the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds, providing that the expansion and the existing facility, when combined, meet or exceed any threshold contained in this section:

(a) a project or action that involves the physical alteration of 2 acres or more; a project or action that would use ground or surface water in excess of 5,000 gallons per day; parking for 15 vehicles or more. a facility with more than 4,000 square feet of gross floor area or demolition thereof; any facility, development or project which, when complete, would generate truck traffic (three-axle or more), of more than 4 vehicles per day; any facility, development or project which is otherwise an unlisted action occurring wholly or partially within 100 feet of the following special resource areas:

- (1) Freshwater wetlands, as defined in Article 1 Section 115 of the Village Subdivision Law or in Article 24 of the State Environmental Conservation Law;
- (2) Trumansburg Creek; or
- (3) Critical Environment Areas, as designated by the Village Board or State or Local Agency.

Any industrial facility (or demolition thereof); Any other type of residential or lodging facility, motel or hotel of 6 or more sleeping units; Process, exhaust and/or ventilating systems emitting nauseating, noxious, or otherwise especially undesirable odors; or

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Bridges (or demolition thereof).

508.6 Preservation Sites. Any action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or contiguous to, any facility or site listed on the National Register of Historic Places, or a historic building or site proposed by the Committee on the Registers for consideration by the State Board on Historic Preservation, or that has been designated as an historic building, landmark, or district by the Village Board of Trustees.

508.7 Park, Recreation Area, or Open Space.

Any project or action that exceeds 50 percent of any threshold in this section, occurring wholly or partially within, or contiguous to any publicly owned or operated park land, recreation area, or designated open space.

508.8 Critical Environmental Areas as defined by SEQR Section 617.2(i). Any action that takes place wholly or partially within, or contiguous to, any Critical Environmental Area duly designated by the Board of Trustees, state, or local agency pursuant to SEQR, Section 617.14(g).

508.9 Grading on Slopes. Any grading on a slope of ten percent or more, except for grading undertaken in conjunction with the construction of a private residential driveway.

508.10 Clear Cutting. Clear cutting or removal of one-half (1/2) contiguous acre or more of trees as defined (Section 432 (e) of Village Subdivision Regulations) or vegetation other than agricultural crops.

508.11 Wetland. Modification of any wetland of one-half (1/2) acre or more as wetland is defined in Article 1, Section 115 of the Village Subdivision Law.

Section 509. Scoping: Issues to be Covered in the Environmental Impact Statement (EIS).

The purpose of the scoping process is for the lead agency to determine what issues need to be

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addressed in an EIS. (See SEQR, Section 617.8.)

Formal scoping is optional. It may occur either at the initiation of the lead agency or at the request of the applicant, and may be accomplished through meeting(s), exchanges of written material, or other appropriate methods. When scoping occurs, the lead agency shall try to:

- (a) identify each relevant issue during the scoping process and provide the preparer of the EIS with the greatest possible specificity so that the environmental review process may proceed in an efficient manner;

identify the extent and quality of information needed for the preparer to properly address each concern; and
determine which issues are not relevant for further consideration or have been covered by prior environmental review.

Scoping should also identify the reasonable alternatives to the proposed action. If formal scoping is undertaken, the lead agency must provide a final written scope to the applicant.

Section 510. Preparation Schedule of the Draft EIS (DEIS) and Final EIS (FEIS).

An EIS provides a means for agencies to give early consideration to environmental factors and facilitates the weighing of social, economic, and environmental issues in planning and decision making. Therefore, the preparation of a DEIS by an applicant or by a Village agency, followed by an FEIS, is to be integrated into existing agency review processes and should occur at the same time as other agency reviews are being undertaken.

Section 511. Contents of an EIS.

511.1 General. An EIS shall assemble relevant and material facts upon which an agency's decision is to be made, shall analyze the significant adverse impacts, must identify the

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essential issues to be decided, and shall evaluate all reasonable alternatives. EISs shall be clearly and concisely written in plain language that can be read and understood by the public. EISs are to be analytical rather than encyclopedic. The specific contents of an EIS are listed in SEQR, Section 617.9 (b).

511.2 Supplemental EIS. The lead agency may require a supplemental EIS, limited to specific adverse environmental impacts not addressed or inadequately addressed in the EIS. SEQR, Section 617.9(a)(7).

511.2 Contents of Final EIS (FEIS). A final EIS must consist of:

- (a) the draft EIS (DEIS), including any revisions or supplements to it; copies or a summary of the substantive comments received and their source (whether or not the comments were received in the context of a hearing); and
the lead agency's responses to all substantive comments.

The draft EIS may be directly incorporated into the final EIS or may be incorporated by reference.

511.4 Responsibility for Contents of Final EIS. The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it. All revisions and supplements to the draft EIS shall be specifically indicated and identified as such in the final EIS.

Section 512. Required Filing of Notices and Documents.

The following SEQR documents shall be prepared, filed, published, and made available as prescribed in SEQR, Section 617.12:

- (a) Negative declarations: for Unlisted actions and Type I actions.

Conditioned negative declarations (SEQR 617.2 (h)).

Positive declarations: for Unlisted actions and Type I actions.

Notice of completion of draft EISs.

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Draft EISs.

Notices of Hearings.

Notices of completion of final EISs.

Final EISs.

SEQR/VEQR findings statements made pursuant to Section 513 of this Article and SEQR, Section 617.11).

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factors and standards which formed the basis of its decision.

Sections 514-599 : reserved.

Adopted by Village Board 12/9/02
Filed with State 12/13/02

Section 513. Decision Making and Findings Requirements.

513.1 Findings Prior to Decision Making.

No agency shall make a final decision

- (a) to commence, engage in, fund, or approve an action,

nor to disapprove an action, that has been the subject of a final EIS until the review process is completed, the time period for public review of the final EIS has passed, and the agency has made and filed a written finding in accordance with SEQR, Section 617. 11.0

513.2 Content of Written Findings. The agency makes a written finding that:

- (a) the agency has given consideration to the final EIS;

the requirements of SEQR, Part 617, have been met;

whether or not consistent with social, economic, and other essential considerations from among the reasonable alternatives thereto, the action to be carried out, funded, or approved is one that minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the relevant environmental impact statement;

whether or not consistent with social, economic, and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable; and

sets forth whatever facts and conclusions from the EIS relied upon to support its decision and indicates the social, economic, and other