



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

TOWN BOARD LEGISLATIVE AGENDA

Wednesday, July 3, 2024 6:30PM

Supervisor Jeff Leenhouts, presiding

- I. Call to Order - Pledge of Allegiance - Roll Call
- II. Communications and Announcements
- III. Public Participation
- IV. Additions and Deletions to Agenda
- V. Approval of Minutes - June 5, 2024
- VI. Petitions
- VII. Resolutions by Function

Law and Finance

24T-120 Authorize the Town Supervisor to Sign an Intermunicipal Agreement with Penfield Central School District for AV Services

24T-121 Support for the Town of Penfield to Pursue Grant Funding Through the New York State Consolidated Funding Application (CFA) Process

24T-122 Setting a Public Hearing to Consider a Proposed Local Law to Amend Penfield Town Code Section 250-6.1, 250-2.2 and Chapter 250 Article VII to Modify the Town's Environmental Protection Overlay District (EPOD) Regulations, Terms Defined and Commercial Timber Harvesting

Public Works

24T-123 Authorization for Supervisor to Sign a Contract with Foundation Design, P.C. for Geotechnical Construction Consultation Services for the New DPW Garage Facility

24T-124 Authorization for Supervisor to Sign a Contract with Steril-Koni USA, Inc for the purchase and Installation of Vehicle Lifts for the new DPW Garage Facility

24T-125 Authorization to Install CROSSWALK Signs on Sweets Corners Road

24T-126 Authorizing the Penfield Town Supervisor to Enter into an Inter-municipal Agreement (IMA) with Penfield Central School District for the Use of District-Owned Property for the Town of Penfield Temporary Brush Drop-off at 2660 Penfield Road

Public Safety - None

Community Services -None

- VIII. Old Business
- IX. New Business
- X. Executive Session
- XI. Next Meeting: August 7, 2024
- XII. Adjournment

This meeting will be video recorded and broadcast LIVE via the town's website www.penfield.org and the Town's Government Access Cable Channel 1303.

Questions regarding video coverage contact Penfield TV at (585) 340-8661.

PENFIELD TOWN BOARD RESOLUTION NO. 24T-120

DATE: July 3, 2024

BY: Councilperson Lee

COMMITTEE: Law and Finance

NAME: **Authorize the Town Supervisor sign an Intermunicipal Agreement with Penfield Central School District for AV Services**

WHEREAS, the Penfield Central School District has requested audio-video services from the Town of Penfield Department of Cable TV to assist with District Board of Education meetings and District video production needs; and

WHEREAS, the Town understands the school District annual video production coverage needs to be; Fourteen (14) Board of Education meetings, one (1) Meet the Candidates Night and one (1) Other Meeting/Award ceremony.

Additional support and services to include:

- Post-production editing, processing, distribution, and archiving of District productions.
- Uploading and managing video on the District website.
- Provide general maintenance and care of AV systems used for meeting coverage.
- Post-meeting closed captioning of each production for replay viewing; and

WHEREAS, the District is financially responsible for the purchasing, service, and repair of its equipment. In the event that the District has directed the Town to execute a purchase or service order resulting in financial liability to the Town, the District agrees to reimburse the Town in full within thirty (30) days of invoice; and

WHEREAS, the District agrees to pay \$13,840.00 annually for Town AV services as listed. Payment will be made in four (4) \$3,460.00 installments annually;

- September 30,
- December 31,
- March 31,
- June 30, and

WHEREAS, the Town has identified the following rates for any additional services, to be quoted to the district upon request;

- Installation/Maintenance - \$80.00 an hour
- Additional Meeting Production - \$80.00 an hour
- Field Production with Town Equipment - \$To be quoted based on needs
- Post-Production Editing - \$68.50 an hour; and

WHEREAS, this agreement shall be for a term of twelve (12) months, July 1, 2024, to June 30, 2025; and

WHEREAS, this agreement may terminate at any time by written notice. Notice shall be made a minimum of thirty (30) days in advance of the termination date. Upon receipt of said written notice the recipient shall have thirty (30) days to cure said basis for termination, the failure of which shall render this agreement null and void without liability to either party; and

NOW BE IT RESOLVED, that the Town Supervisor, Jeff Leenhouts is hereby authorized to accept and execute said Intermunicipal Agreement upon review and approval of the Town Attorney.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

Attachment: "PCSD Agreement for Video Services"

PENFIELD TOWN BOARD RESOLUTION NO. 24T-121

DATE: July 3, 2024

BY: Councilperson Lee

Law & Finance Committee

NAME: Support for the Town of Penfield to Pursue Grant Funding Through the New York State Consolidated Funding Application (CFA) Process

WHEREAS, the New York State Consolidated Funding Application (CFA) 2024 round is currently open and grant programs have been announced, and

WHEREAS, the Town of Penfield has identified potential grant programs that align with Town goals and priorities; and

WHEREAS, the Town Board is aware of the local match requirements associated with the potential grant opportunities and has the funds available to make cash matches should the grant be awarded.

NOW, THEREFORE, BE IT

RESOLVED, the Town Board supports the pursuit of eligible funding opportunities through the 2024 NYS CFA and instructs staff to submit applications following the guidance provided by the applicable state agencies.

Moved: _____

Seconded: _____

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

BY: Councilperson Lee

Committee: Law and Finance

NAME Setting a Public Hearing to Consider a Proposed Local Law to Amend Penfield Town Code Sections 250-6.1, 250-2.2 and Chapter 250 Article VII to Modify the Town's Environmental Protection Overlay District (EPOD) Regulations, Terms Defined and Commercial Timber Harvesting.

WHEREAS, the Town Board of the Town of Penfield wishes to consider a draft local law to amend the Town's existing Environmental Protection Overlay District (EPOD) regulations contained in Town Code Section 250-6.1 as well as the terms defined in Section 250-2.2; and

WHEREAS, the draft local law also proposes to move the commercial timber harvesting regulations to Chapter 250, Article VII (Provisions Applicable to All Districts); and

WHEREAS, the proposed draft local law is contained in Schedule A and attached hereto; and

WHEREAS, the subject application is classified as an unlisted action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Penfield Town Board is the only legislative body able to adopt local laws and is best suited to act as "lead agency" under SEQRA and thus does hereby designate itself as such for this proposed action.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the said Town of Penfield shall hold a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on August 7, 2024 at 6:30PM on said date, to consider the said proposal and to hear all persons interested on the matter. A copy of said proposed local law is attached hereto and made a part hereof as Schedule A;

AND BE IT FURTHER RESOLVED, that the Town Clerk be and she hereby is directed to publish and post a Notice of the Public Hearing on the official signboard of the Town in the manner prescribed by Law, the first publication thereof to be not less than ten (10) days and not more than thirty (30) days before the date set for the said public hearing, as aforesaid.

Moved: _____

Seconded: _____

Vote: Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-123

DATE: July 3, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorization for Supervisor to sign a contract with Foundation Design, P.C. for Geotechnical Construction Consultation services for the new DPW garage facility

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$3,500.00 for professional services with Foundation Design, P.C., to provide geotechnical construction consultation services for the new DPW garage facility at 1607 Jackson Road. This resolution and the proposal submitted by Foundation Design, P.C. shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$3,500.00 from the Assigned General Fund Balance as an amendment to the 2024 budget for these services.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-124

DATE: July 3, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorization for Supervisor to sign a contract with Steril-Koni USA, Inc for the purchase and installation of vehicle lifts for the new DPW garage facility

BE IT RESOLVED, that the Supervisor is hereby authorized to sign a contract, not to exceed \$358,957.04, with Steril-Koni, USA inc, through Sourcewell Contract # 013020-SKI and NYSOGS Contract # PC69419, for the purchase and installation of vehicle lifts in the new DPW garage facility at 1607 Jackson Road. This resolution and the proposal submitted by Steril-Koni, USA Inc shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

BE IT FURTHER RESOLVED, the Town Board approves appropriation of \$358,957.04 from the Assigned General Fund Balance as an amendment to the 2024 budget for these services.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

PENFIELD TOWN BOARD RESOLUTION NO. 24T-125 DATE: July 3, 2024

BY: Councilperson Ockenden

COMMITTEE: Public Works

NAME: Authorization to Install CROSSWALK Signs on Sweets Corners Road

WHEREAS, it is the Town of Penfield’s responsibility to promote and maintain public safety on roads within the Town of Penfield; and

WHEREAS, pursuant to the New York State Vehicle and Traffic Law, Section 1660, the Penfield Town Board is granted the authority to authorize the establishment of traffic control devices on Town highways within the Town of Penfield; and

WHEREAS, the Town of Penfield – Department of Public Works has received a request to install “CROSSWALK” signage on Sweets Corners Road, between Fairport Nine Mile Point Road and Dublin Road;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby authorizes that “CROSSWALK” signage will be established on both sides of Sweets Corners Road, between Fairport Nine Mile Point Road and Dublin Road; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes and directs the Director of Public Works to install said “CROSSWALK” signs.

Moved: _____

Seconded: _____

Vote:

Berry _____

Lee _____

Leenhouts _____

Ockenden _____

Teglash _____

BY: Councilperson Ockenden

Public Works Committee

NAME Authorizing the Penfield Town Supervisor to Enter into an Inter-municipal Agreement (IMA) with Penfield Central School District for the Use of District-Owned Property for Town of Penfield Temporary Brush Drop-off at 2660 Penfield Road (Tax ID: 126.03-1-10)

WHEREAS, the Town of Penfield has the opportunity to use of 2660 Penfield Road (“the Property”) to serve as a temporary location for brush drop-off for the Town of Penfield during the DPW reconstruction project; and

WHEREAS, the owner of the Property, the Penfield Central School District, was amenable to executing an Inter-Municipal Agreement (“Agreement”) with the Town to utilize a portion of the property for brush drop-off and make required modifications associated with said use; and

WHEREAS, the action was classified as a Type I action under State Environmental Quality Review Act (SEQRA) and the Town Board, acting as Lead Agency, conducted a coordinated review of the proposed project, carefully examined the potential environmental impacts, and made a Negative Declaration (Resolution 24T-117), which concluded the SEQRA process; and

WHEREAS, the Town’s temporary use of a portion of District-owned land pursuant to the Agreement is immune from local zoning based on the following factors:

1. The Town’s need for a temporary location to store residents’ brush is an instrumental service that has been provided for many years and is considered an important service by many residents and the Town wishes to continue providing this service.
2. There is no encroachment by any other legislative body. The Agreement sets forth the terms of the Town’s use of a District-owned property located entirely within the Town of Penfield’s municipal boundary.
3. As stated above, the project does not encroach on any other municipality.
4. The land will be used to provide an alternative temporary location for an existing municipal service and the proposed site modifications were designed by the Town of Penfield Engineering Department and reviewed by the Town of Penfield’s Department of Public Works (DPW), and the New York State Department of Environmental Conservation (NYSDEC) for compliance with all applicable state regulations and includes the preparation of a Stormwater Pollution Prevention Plan. The use of the property does not include the construction of any buildings or other occupiable or storage structures.
5. The proposed site is located in the Rural Agriculture (RA) district and the proposed activity is compatible with permitted land uses in the district and there is no less restrictive zoning district available to allow this proposed use.
6. The proposed use of the property will serve the Town of Penfield’s own local interests by allowing the continuation of an important municipal service (i.e., brush drop-off by residents and occasional processing of brush to create mulch that is used by the Town on various town properties and made available to residents for free pick up).
7. No other alternative sites or locations available for the Town’s consideration met the town’s project needs.

8. The proposed Agreement and temporary use of the property for brush drop-off has been reviewed by various technical staff from the Town and District, as well as legal counsel for both parties. The proposed site modifications associated with the temporary use conform to all applicable State regulations and permitting requirements, and do not include the construction of any buildings or other occupiable structures on the site.
9. The Town's interests are being served by allowing the Town to continue a municipal service.

WHEREAS, Town of Penfield Town Attorney and Counsel to the Penfield Central School District have reviewed the proposed Agreement and find the terms of the agreement mutually agreeable to both parties.

NOW, THEREFORE, BE IT RESOLVED, the Town Board authorizes the Town Supervisor to execute the Agreement on behalf of the Town of Penfield subject to final approval by the Town Attorney.

AND BE IT FURTHER RESOLVED, that once executed by both parties, the signed Agreement will be filed in the Town Clerk's Office and the Monroe District Clerk's Office.

AND BE IT FURTHER RESOLVED, once filed, the Town Board authorizes the Director of Public Works to commence the planned site modifications associated with the Town's brush drop-off, in accordance with the terms of the Agreement.

Moved: _____

Seconded: _____

Vote:	Berry	_____
	Lee	_____
	Leenhouts	_____
	Ockenden	_____
	Teglash	_____

**INTERMUNICIPAL AGREEMENT
REGARDING THE TOWN OF PENFIELD’S USE OF A PORTION OF
2660 PENFIELD ROAD (TAX ID: 126.03-1-10)**

This INTERMUNICIPAL AGREEMENT (the “Agreement”) is made pursuant to Article 5-G of the General Municipal Law between the TOWN OF PENFIELD (the “Town”), a municipal corporation with offices at 3100 Atlantic Avenue, Penfield, NY 14526, and the PENFIELD CENTRAL SCHOOL DISTRICT (the “School District”), a public school district with offices at 2590 Atlantic Avenue, Rochester NY 14625 (each hereinafter sometimes individually referred to as a “Party” and collectively referred to as the “Parties”).

WHEREAS, the Town is a member of the Monroe County Council of Governments, which has the expressed purpose of facilitating agreements and cooperation actions among member governments, fire districts, and school districts; and

WHEREAS, the School District owns a 62-acre parcel located within the Town at 2660 Penfield Road, Penfield NY 14526, Tax ID: 126.03-1-10 (the “Property”) and is amenable to executing this Agreement to permit the Town to utilize up to four and a half (4.5) acres of the Property for brush drop-off and to make required modifications associated with said use; and

WHEREAS, the Town wishes to use the Property as a drop-off location for brush materials only, as well as temporary outdoor storage of the Town’s Department of Public Works (“DPW”) materials and supplies (*e.g.*, precast catch basins, pipe, stone, spoil material) during the construction of the Town's DPW new facility at its current location (1607 Jackson Road) (the “Permitted Use”); and

WHEREAS, in order to prepare the Property for the Permitted Use, the Town will construct a 24-foot-wide stone driveway with an asphalt apron, approximately 100 LF in length

and a brush drop-off area, up to four and a half (4.5) acres in size, comprised of crushed stone and/or millings (the “Project”): and

WHEREAS, the Project will also include installation of a locking gate to control access to the proposed usable area; and

WHEREAS, both the Project and the Permitted Use considers the School District’s future long-term use of the modified portion of the property beyond the term(s) of this Agreement as amended or extended.

NOW THEREFORE, in consideration of the mutual promises made herein, and for other good and valuable consideration, the adequacy and receipt of which each Party acknowledges by its signature below, the Parties agree as follows:

1. **Permitted Use**. The School District shall permit the Town to use up to four and a half (4.5) acres of the Property for the Permitted Use (the “Permitted Use Area”), which includes a drop-off location for brush materials only, as well as temporary outdoor storage of the Town’s Department of Public Works (“DPW”) materials and supplies (*e.g.*, precast catch basins, pipe, stone, spoil material) during the construction of the Town's DPW new facility at its current location (1607 Jackson Road), under the terms and conditions set forth herein. The Permitted Use Area includes the drop-off and storage area of up to four and a half (4.5) acres together with a stone driveway to Gloria Drive. A map showing the approximate location of the Permitted Use Area is attached hereto and made a part hereof as *Appendix A*. Upon expiration or termination of the agreement, the Town shall restore the Permitted Use Area to substantially the same condition existing as of the date of this Agreement, except as otherwise agreed.

2. **Project**. In order to prepare the Property for the Permitted Use, the Town is permitted to and will expand the existing site entrance to construct a 24-foot-wide stone driveway

with an asphalt apron, approximately 100 LF in length and a brush drop-off area, up to four and a half (4.5) acres in size, comprised of crushed stone and/or millings (defined above as the “Project”). The Project will also include installation of a locking gate to control access to the Permitted Use Area.

3. **Initial Term.** This Agreement shall be effective as of the first day of the month after last executed by the Parties (the “Effective Date”). The initial term of this Agreement shall be two (2) years from the Effective Date.

4. **Renewal.** After the initial two (2) year term, the Agreement may be renewed in writing by both parties for successive one-year terms, until the temporary use by the Town is no longer required.

5. **Termination.** Pursuant to N.Y. Education Law §403-a(6)(a)–(c), this Agreement may be canceled by the School District at any time with two (2) months’ notice upon:

- a. A substantial increase or decrease in enrollment at the School District; or
- b. A substantial change in the needs and requirements of the School District with respect to facilities; or
- c. Any other change that substantially affects the needs or requirements of the School District or the community in which it is located.

6. **Notice.** Any notice, request, instruction or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been given, (i) when received if given in person, (ii) on the date of acknowledgment of receipt if sent by facsimile or by overnight courier, or (iii) three days after being deposited in the U.S. mail, certified or registered mail, postage prepaid and addressed as follows:

- a. To the Town: Supervisor, Town of Penfield, Penfield Town Hall,

3100 Penfield Road, Penfield, New York 14526; and

- b. To the School District: Superintendent of Schools, Penfield Central School District, 2590 Atlantic Avenue, Rochester NY 14625.

7. **Project Infrastructure.** At the conclusion of the last term, the infrastructure installed as part of the Project will become the property of the School District. The School District may continue to maintain the infrastructure or remove it at the School District's sole cost and expense.

8. **Assignment and Transfer.** This Agreement shall not be assigned, transferred or otherwise conveyed to any other party without the express written consent of the non-assigning Party prior to such assignment or transfer.

9. **Applicable Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New York for documents executed within the State of New York. The County of Monroe in the State of New York is hereby designated as the place of trial for any action or proceeding arising from or in any way connection with enforcement or a breach of this Agreement.

10. **Binding Effect.** This Agreement and the transactions provided for herein shall be binding upon and inure to the benefit of the Parties, their heirs, distributees, legal representatives, transferees, successors and assigns.

11. **Construction.** All understandings and agreements made by and between the Parties are merged into this Agreement, which alone fully and completely expresses the full and entire agreement of the Parties with respect to its subject matter. This Agreement supersedes any and all prior agreements concerning its subject matter and may not be changed or terminated, nor any of its provisions modified or waived, except in writing signed by all Parties to this Agreement.

12. **Representations & Warranties Concerning Authority.** Each of the

undersigned Parties represents and warrants as follows by executing this Agreement: (a) that he or she has read this Agreement and understands its contents, terms, conditions and promises and its legal effect; (b) that he or she has the authority to execute this Agreement on behalf of the Party on whose behalf he has signed and its predecessors, successors and assigns; (c) that he or she is executing this Agreement freely and voluntarily with the intent to bind his or her respective Party and its predecessors, successors and assigns to the terms, conditions and promises of this Agreement; and (d) each Party to this Agreement acknowledges and represents that they each have relied solely upon facts obtained from their own investigation in executing this Agreement and that they each have not relied upon any statement or representation of any nature from the other Parties or the other Parties' attorneys or representatives. Each Party also represents that it was represented throughout the negotiating process underlying this Agreement by an attorney, and that it has had the opportunity to thoroughly discuss all aspects of this Agreement with his own private attorney.

13. **Contingencies.** This Agreement remains contingent upon prior approval by the School District's Board of Education. This Agreement remains contingent upon continued insurance coverage outline in Section 13 below.

14. **Insurance.** The Town will supply the School District with a certificate of insurance with the following limits and requirement:

- General Liability coverage of \$1,000,000 per occurrence and \$3,000,000 in the aggregate
- Umbrella Liability coverage of \$10,000,000 per occurrence and \$10,000,000 in the aggregate
- Owners and Contractors Protective Liability coverage, naming both the Town and the School District, of \$1,000,000

The School District must be listed as an additional insured with the Town and any contractor. Such insurance shall include a waiver of subrogation.

15. **Miscellaneous.** The following provisions will apply to this Agreement:

a. the paragraph headings contained in this Agreement have been prepared for convenience of reference only and will not control, affect the meaning, or be taken as an interpretation of any provision of this Agreement; and

b. several copies of this Agreement may be executed by the Parties, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument; and

c. this Agreement may be signed upon any number of counterparts with the same effect as if signature on all counterparts are upon the same instrument; and

d. signatures delivered by facsimile or electronically shall be deemed original signatures for all purposes of this Agreement; and

e. in the event any term or condition of this Agreement should be breached by any Party and thereafter waived by the other Party, such waiver shall only be effective in writing and shall be limited to the particular breach so waived and shall not be deemed to waive any other breach either prior or subsequent to the breach so waived; and

f. whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

IN WITNESS WHEREOF, Each Party has caused this Agreement to be executed by him
on the date set forth below.

TOWN OF PENFIELD

Dated: _____

By: Jeffrey Leenhouts, Supervisor

PENFIELD CENTRAL SCHOOL DISTRICT

Dated: _____

By: Dr. Thomas K. Putnam, Superintendent of Schools

2024-2025
Agreement for Video Services between
Town of Penfield and Penfield Central School District

The Penfield Central School District (hereinafter referred to as "District") has requested audio-video (hereinafter referred to as "AV") services from the Town of Penfield Department of Cable TV (hereinafter referred to as "Town") to assist with District Board of Education meetings and District video production needs.

SCOPE OF NEEDS

The Town understands the school District annual video production coverage needs to be; Fourteen (14) Board of Education meetings, one (1) Meet the Candidates Night and one (1) Other Meeting/Award ceremony.

Additional support and services to include:

- Live transmission of the above events
- Post-production editing, processing, distribution, and archiving of District productions.
- Uploading and managing video on the District website.
- Provide general maintenance and care of AV systems used for meeting coverage.
- Post-meeting closed captioning of each production for replay viewing.

DATES AND TIME

The District will provide the dates, time and location of the identified events to the Town annually.

The District will provide the Town with as much lead time as possible for Special Meetings; but not less than two (2) days, forty-eight (48) hours advance notice.

PRODUCTION SERVICES

Town staff will be responsible for the setup and operation of District AV equipment to effectively record District meetings.

TRANSMISSION

The Town will permit the District to utilize its Cable Access Channels and Internet Streaming Services for the live and replay transmission of each District meeting.

DISTRIBUTION

Each recording will be closed captioned and included in the Town's Video-On-Demand (VOD) streaming services (Apple TV, Roku, and Amazon Fire) for a minimum of (6) six and up to (12) twelve months from the date of the recording. This includes all Town web based VOD viewing apps.

The Town shall upload and manage the District meeting videos on the District website.

ACCESS

The District shall provide Town staff with the necessary access to District parking, buildings, rooms, computer networks, and website to accomplish the identified District needs as described.

MAINTENANCE

The District agrees to maintain its AV systems and support equipment in a condition of good working order required for the Town to execute the production services as identified within the SCOPE OF NEEDS of this agreement.

The Town will provide the general care maintenance of said equipment systems. The Town will report any maintenance concerns to the District.

ADDITIONAL SERVICES

The Town can provide other AV production, maintenance, and installation services not included in the SCOPE OF NEEDS to the District on an as-needed basis. These services can be negotiated annually or quoted upon request.

SUPPORT

In the spirit of cooperation, both parties agree to assist each other through the short term of equipment loans to cover unforeseen failures or technical difficulties.

EXPENSES

The District is financially responsible for the purchasing, service, and repair of its equipment. In the event that the District has requested the Town to execute a purchase or service order on behalf of the District that results in financial liability to the Town, the District agrees to reimburse the Town in full within thirty (30) days of invoice.

PANDEMIC/ILLNESS

The Town nor District can control or predict the potential effect or impact on staff resources during a public health emergency or any other event beyond control of the party(s). In the event of direct impact to Town staff resources that prevents staff's ability to safely execute production services on location, an advance agreeable alternative solution will be executed.

Town staff and District will identify alternative solutions and evaluate and adjust the said plan as needed.

STAFFING

The Town budgets the following staff time allowances to meet the District Scope of Needs per event;

- 0.25 Hrs. Communication and Preparation
- 1.0 Hrs. AV Equipment Setup
- 0.5 Hrs. Testing
- 2.5 Hrs. Meeting Coverage
- 1.0 Hrs. Strike Equipment
- 1.5 Hrs. Post Meeting Media Management Tasks

FEES

The District agrees to pay \$13,840.00* to the Town for AV production, distribution services. Payment will be made in four (4) \$3,460 installments annually on the following dates:

- September 30
- December 31
- March 31
- June 30

*Additional fees may apply in the event staff time allowances are exceeded at a rate of \$80.00 per hour, per staff member on site.

RATES

The Town has identified the following rates for additional services, to be quoted upon request.

- Installation/Maintenance - \$80.00 an hour,
- Additional Meeting/Event Production - \$80.00 an hour
- Post-Production Editing - \$68.50 an hour
- Town Equipment Use - To be quoted based on needs

INDEMNIFICATION

To the maximum extent permitted by law, the District shall indemnify, defend and hold harmless, the Town, its elected and appointed officials, employees and agents at all times from and against any and all claims, damages, losses and expenses of any nature whatsoever, including, but not limited to, personal injury, death, property damage and reasonable attorney fees arising out of, related to, or resulting from the creation, promotion, and participation in the providing of audio-visual services relating to the Penfield Central School District Board of Education meetings and/or other District productions. This indemnification shall not apply to any claim or liability resulting from the sole negligence or willful misconduct of any indemnified party.

TERMS

This agreement is for twelve (12) months, July 1, 2024, to June 31, 2025.

TERMINATION

This agreement may be terminated at any time with written notice. Notice shall be made a minimum of thirty (30) days in advance of the termination date.

ENTIRE CONTRACT/LAWS OF NEW YORK

This agreement shall constitute the complete agreement between the District and Town. No oral agreements or promises will be binding. This agreement is governed by the laws of the State of New York.

This agreement is made between:

_____ Date: _____

Jeff Leenhouts, Supervisor, Town of Penfield

_____ Date: _____

Dr. Thomas Putnam, Superintendent, Penfield Central School District

Schedule A
Town of Penfield
Proposed Local Law No. ____ of 2024
Amending Section 250-6.1 (Environmental Protection Overlay Districts) and Making Corresponding Amendments to Section 250-2.2 and Chapter 250 Article VII. Regulations

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

Section 1. Title

This local law shall be known as “Amendments to Chapter 250 to Modify Environmental Protection Overlay District Regulations, Terms Defined, and Provisions Applicable to All Districts.”

Section 2. Legislative Intent and Purpose

It is the intent and purpose of this local law to revise the Penfield Town Code to update and clarify the regulations governing the Town’s Environmental Protection Overlay Districts, including the permitting process, requirements, and definitions. To ensure consistency and remove competing requirements, amendments are needed to several sections of the Town Code: 250-2.2 (Terms Defined), 250-6.1 (Environmental Overlay Protection Overlay Districts), as well as Chapter 250, Article VII (Provisions Applicable to All Districts).

Section 3. Remove existing 250-6.1 in its entirety and replace with the text below:

§ 250-6.1. Environmental Protection Overlay Districts (EPOD).

A. Purpose.

- (1) The purpose of the Environmental Protection Overlay Districts (EPOD) established in this article is to provide special controls over land development located in sensitive environmental areas within the Town of Penfield. These overlay districts and their associated regulations are designed to preserve and protect unique environmental features within the Town as much as possible, including but not limited to wetlands, steep slopes, woodlands, floodplains and streams.
- (2) The regulations contained in each EPOD are intended to supplement the development regulations contained in the underlying zoning district. Conformance with the applicable EPOD regulations must be demonstrated by the applicant or developer as part of the project approval process.
- (3) Environmental Protection Overlay District (EPOD) permits shall not be issued for any prohibited uses, as defined in the underlying zoning district or elsewhere in this chapter.

B. Establishment of district. In order to address the specific goals listed in Subsection A of this section, the Town of Penfield has established the following EPODs:

Wetland
Steep Slope
Woodland
Floodplain
Stream

C. EPOD maps. The approximate locations and boundaries of all EPODs shall be delineated on a set of maps on file in the Town Clerk's office ("Town of Penfield EPOD Maps"). The mapped features are based on information and materials provided by the state and federal agencies including but not limited to: New York State Department of Environmental Conservation (NYSDEC); United States Army Corps of Engineers (USACOE); and the Federal Emergency Management Agency (FEMA). The Town of Penfield EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. Field investigations and/or other environmental analyses may be required by the applicant in order to determine whether or not a particular piece of property is included within one or more of the overlay districts.

D. Review and Interpretation of district boundaries.

- (1) The authorized official shall be responsible for reviewing and interpreting Environmental Protection Overlay District boundaries. In making a determination of EPOD boundaries, the authorized official may request the assistance of other town department(s), county, state or federal agencies, and/or town consultants.
- (2) In instances where the boundary of an EPOD intersects with any other overlay district, conformance with all applicable zoning regulations is required.

E. Exempt activities. The following activities are exempt from the permit procedures of the article, subject to a determination by the authorized official:

- (1) Lawn care and maintenance.
- (2) Gardening activities.
- (3) Tree and shrub care and maintenance.
- (4) Removal of dead or deteriorating trees and vegetation.
- (5) In Woodland EPOD, removal of trees for firewood (for personal use only) provided the removed trees are not located in any other EPOD, and they comply with the limits set forth in I (3) (a) of this section.
- (6) In Woodland EPOD, removal of trees on an occupied residential property for landscaping purposes, provided the removed trees are not located in any other EPOD and they comply with the limits set forth in I (3) (a) of this section.

- (7) Removal of buildings and accessory structures; excluding any structure associated with steep slope management.
- (8) Repair and maintenance of existing buildings and accessory structures.
- (9) Reconstruction of buildings and/or accessory structures damaged by a natural disaster.
- (10) Repair and maintenance of utilities.
- (11) Customary agricultural activities, excluding construction of new structures.
- (12) Public health activities, orders and regulations of the New York State Department of Health, Monroe County Department of Health, or other agency, undertaken in compliance with the New York State Environmental Conservation Law.
- (13) Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment, under the provisions of Article VII of the New York Public Service Law.
- (14) Any actual or ongoing emergency activity which is immediately necessary for the protection and preservation of life, property or natural resource values.

F. Permit application procedures.

(1) EPOD development permit:

- (a) An EPOD development permit shall be required before the commencement of any regulated activity or the issuance of any building permit for regulated development in a designated Environmental Protection Overlay District within the Town of Penfield.

(2) Application for permit.

- (a) Applications for EPOD development permits shall be made in writing to the appropriate board or authorized official having jurisdiction in the matter, on forms provided by the Town Planning or Engineering Departments. Such an application shall be made by the property owner or his/her agent and shall be accompanied by any materials or information deemed appropriate by the Town, including but not limited to a scaled site plan prepared and certified by a licensed engineer or land surveyor (one inches equals 50 feet), which contains the following minimum information:

[1] A location plan and boundary line survey of the property.

[2] The location of all EPODs, designated town open space, town, county or state parkland within the proposed project area and within 200 feet of the project area boundary.

[3] The location of all existing and proposed buildings, structures, utility lines, sewers, water service, and stormwater infrastructure within the proposed project

area and within 200 feet of the project area boundary.

[4] The location of all existing and proposed impervious surfaces such as driveways, sidewalks, etc., within the proposed project area and within 200 feet of the project area boundary.

[5] Existing and proposed contour levels at one-foot intervals for the property, unless such property is located within a steep slope protection district, whereby contour levels may be shown at two-foot intervals.

[6] The boundary limit of all earthwork.

[7] The location of all existing and proposed water bodies within the proposed project area and within 200 feet of the project area boundary.

(b) Each application for an EPOD development permit shall be accompanied by the appropriate fee(s) as identified on the Town's adopted fee schedule. The fee(s) shall be in addition to any other fees required for the development under this chapter and/or the Town Code.

(3) Permit review.

(a) For projects that only require an EPOD permit or an administrative site plan approval, EPOD applications shall be reviewed administratively by the Town Planning and Engineering Departments.

(b) For projects requiring site plan approval under Article XII of this chapter, the board having jurisdiction shall consider the EPOD permit as part of the public hearing conducted for the site plan application, per the requirements outlined in Article XII.

(c) Town staff, members of the board having jurisdiction or their authorized agents may conduct inspections on a property while it is under review.

(d) The authorized official or board having jurisdiction shall have the authority to grant or deny an EPOD development permit, subject to the standards, criteria, other regulations contained in this chapter and regulations contained in the State Environmental Quality Review Act (SEQRA). The authorized official or the board having jurisdiction may also request an engineer's report pertaining to such permit applications.

(e) The authorized official or board having jurisdiction shall consider whether there is any reasonable alternative for the proposed regulated activity to take place on another portion of the site to avoid the EPOD.

(f) The applicant for an EPOD permit shall have the burden of demonstrating that the proposed regulated activity will be conducted in accordance with the standards and requirements set forth in this chapter, as required by the authorized official or board having jurisdiction.

(g) Appeals from decisions of the authorized official or the board having jurisdiction regarding the granting or denying of any EPOD development permit or the

conditions for approval of such a permit shall be made to the Town Board.

- (h) Any development permit issued by the authorized official or the board having jurisdiction, in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the policies and provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:

- [1] The authorized official, Town Engineer/consulting engineer and/or other appropriate Town official shall have the right to inspect the project.

- [2] The permit shall expire one year from the date of issuance. The board having jurisdiction may extend the permit at the written request of the applicant.

- [3] The permit holder shall notify the authorized official or other appropriate Town official of the date on which project construction is to begin, at least five days in advance of such date of construction.

(4) Requirement for letter of credit/certified check.

- (a) Following approval of an application for an EPOD development permit, and prior to the issuance of any building or other Town permit, the applicant shall furnish the Town with an irrevocable letter of credit or certified check in an amount to be reviewed and approved in writing by the Town Engineer/consulting engineer, and sufficient to cover the costs of compliance, contingencies and inspection of the various specifications and conditions of the development permit. The purpose of the letter of credit or certified check shall be to ensure that all items, activities or structures specified in the plans approved by the authorized official or the Town Planning Board are constructed or carried out in accordance with such plans and specifications and other appropriate requirements of the Town of Penfield.

- (b) The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the authorized official has certified that, based on a site inspection, all specifications, requirements and permit conditions have been completed and/or complied with, whereupon the letter of credit or certified check shall be released to the applicant. The authorized official, upon recommendation of the Town Engineer/consulting engineer, or other appropriate department or authorized official, may deduct or withhold an amount from the letter of credit or certified check sufficient to cover the cost of noncompliance with any requirements, specification, or permit condition and/or release the Town from any liability resulting from such noncompliance.

(5) Suspension or revocation of permits.

- (a) Suspension. An authorized official may temporarily suspend an EPOD permit if the project is not complying with the terms or conditions of such permit. Suspension may be lifted after a plan for corrective action(s) has been reviewed and approved by the authorized official. All work within an EPOD shall cease immediately upon suspension of a permit.

(b) Revocation. In cases where there is evidence that the applicant has not complied with the terms or conditions of an issued EPOD permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in writing, the authorized official shall provide written notice to the permit holder outlining the reasons the permit is being referred to the Town Planning Board for revocation.

[1] Written notice must be provided at least five (5) days before the Planning Board meeting where the recommended revocation will be reviewed.

[2] The Planning Board shall provide its findings and reasons, in writing, for revoking a permit issued pursuant to the section. The authorized official shall forward a copy of said findings to the applicant. All work within the EPOD shall immediately cease upon revocation of an EPOD permit.

G. Wetland EPOD

(1) Purpose. The Wetland EPOD regulations are designed to preserve, conserve and protect freshwater wetlands located within the Town of Penfield and ensure regulated activities receive the required EPOD permit(s) as defined and described herein. The Town will defer to state wetland regulations set forth in New York State Environmental Conservation Law, as well as the federal wetland permitting requirements as established by the United States Army Corps of Engineers (USACOE). These areas shall be protected as invaluable natural resources that provide flood protection, wildlife habitats, recreational and open space, erosion and pollution control, and protection and recharging of groundwater supplies.

(2) Delineation of district boundaries. The boundaries of the Wetland Protection Overlay District shall be delineated on the Official Town of Penfield EPOD Maps and shall include all regulated wetland areas as defined by the New York State Department of Environmental Conservation (NYSDEC) and the USACOE. For regulated activities within a Wetland EPOD, including any established buffer areas, the applicant shall provide a wetland delineation as part of their application. The Town shall ensure that any application that falls within NYSDEC and/or USACOE jurisdiction obtain the required state and/or federal permits required prior to issuance of EPOD permit.

(3) Regulated activities. No regulations contained within this article may supersede the provisions set forth in any state or federal regulations pertaining to regulated wetlands, as amended or changed. Activities exempt from the permit procedures of this article are provided in § 250-6.1, Subsection E titled "Exempt activities." The following regulated activities require an EPOD permit.

(a) Any form of draining, dredging, excavation or removal of any natural or previously deposited materials directly or indirectly from a wetland.

(b) Any form of dumping, filling or depositing any material either directly or indirectly within a wetland.

(c) The erection or placement of any structures, roads or any man-made materials within the wetland.

- (d) Stormwater and/or waste management facilities, including but not limited to installing a pond, biofilter, rain garden, septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid wastes into a wetland.
 - (e) Any activity which impairs the natural function of wetlands, whether the impairing activity is located within the wetland or not.
 - (f) Any activity regulated by Environmental Conservation Law § 24-0701.
- (4) Development standards and permit conditions.
- (a) A Wetland EPOD permit shall only be granted if the applicant can adequately demonstrate that the regulated activity will not produce any of the following adverse impacts:
 - [1] Alter groundwater reservoir capacities.
 - [2] Decrease watercourse flood-carrying capacities.
 - [3] Deteriorate water or air quality.
 - [4] Alter water retention capabilities.
 - [5] Increase downstream siltation.
 - [6] Adversely alter the natural wildlife balance.
 - [7] Impair any natural function of the wetland.

H. Steep Slope EPOD

- (1) Purpose. The purpose of the Steep Slope EPOD is to minimize the impacts of regulated activities on steep slopes in the Town of Penfield. Steep slope areas are sensitive and can be prone to soil erosion and sedimentation, destruction of vegetation, increased runoff rates and slope failure. The regulations contained in this district are intended to protect steep slope areas. These regulations are designed to minimize the disturbance or removal of existing vegetation, prevent increased erosion and runoff, maintain established drainage systems, locate development where it is less likely to cause future slope failures and to retain, as much as possible, the natural character of these areas.
- (2) Delineation of district boundaries. The boundaries of the Steep Slope EPOD shall be delineated on the Official Town of Penfield EPOD Maps and shall include any area with a slope of fifteen percent or greater. A check zone of 25 feet from the mapped Steep Slope EPOD boundaries will also be identified on the map. To more accurately delineate a Steep Slope EPOD boundary, an authorized official or Town Engineer/consulting engineer may consult other data sources including, but not limited to, soil survey reports, topographic maps, field surveys and other expert data sources deemed appropriate by the Town Engineer.
- (3) Regulated activities. No person shall conduct any of the following regulated activities in a Steep Slope EPOD until an EPOD permit has been obtained. Activities exempt from the permit procedures of this article are provided in § 250-6.1, Subsection E titled

“Exempt activities.” The following regulated activities require an EPOD permit.

- (a) Clearing of or construction on any land area within the EPOD, including construction or clearing activities related to providing equipment access on the site.
 - (b) The construction or placement of any sewage disposal system, including individual sewage disposal systems, septic tanks, septic drainage or leach fields.
 - (c) Filling, cutting, or excavating operations.
 - (d) Discharge of stormwater and/or construction and placement of stormwater runoff systems.
 - (e) Timber harvesting for personal or commercial use.
- (4) Development standards and permit conditions.
- (a) A Steep Slope EPOD shall be issued by the authorized official or the board having jurisdiction if the applicant can adequately demonstrate the following applicable requirements have been met.
 - [1] The stable angle of repose of the soil classes found on the site has been used to determine the proper placement of structures and other development-related facilities within the plateau area. Site-specific calculations of the stable angle of repose for the site shall be determined by the applicant’s professional soil scientist or engineer. The calculations shall utilize the soil classes and nomenclature contained in the soil surveys provided by Natural Resources Conservation Service (NRCS) or other designated federal or state agency. The property’s slope and soil conditions will be based on soil borings as well as high-intensity soil survey data provided by the applicant.
 - [2] The stability of soils will be maintained or increased to adequately support any construction thereon, or to support any landscaping, agricultural, or similar activities. This shall be documented by soil-boring data provided by a qualified testing laboratory or engineer and paid for by the applicant.
 - [3] Approved activity shall not cause erosion or slipping of soil, or cause sediment to be discharged off the property or into any water bodies, streams, tributaries, wetlands and/or floodplain areas.
 - [4] The area of disturbance is minimized to the greatest extent practicable.
 - [5] Trees and plant life located on the slopes outside the area of disturbance for approved activities shall not be removed or damaged. Plants or other acceptable ground cover shall be reestablished in disturbed areas immediately upon completion of development activity so as to prevent any of the harmful effects set forth above to maintain the natural scenic characteristics of any steep slope. Proposed plantings in the steep slope areas shall be reviewed and approved by the Town Engineer or a designated consultant.
 - [6] Impervious access on steep slopes shall be provided with ramp slopes that

comply with the Town's Construction and Design Criteria, as amended or changed. Disturbed non-roadway areas shall be stabilized and adequately drained.

- [7] Construction of erosion protection structures, particularly along the water side of eroding bluffs, shall provide protection of bluff features according to the following standards:
 - [a] All erosion protection structures shall be designed and constructed according to generally accepted engineering principles found in the New York State Standards and Specifications for Erosion and Sediment Control (NYS Blue Book), as amended or changed.
 - [b] The construction, modification or restoration of erosion protection structures shall be designed to avoid measurable increase in erosion at the development site or other locations.
 - [c] The design shall prevent adverse effects to natural protective features, existing erosion protection structures, and natural resources such as significant fish and wildlife habitats.
- [8] Drainage of stormwater shall not cause erosion or siltation, contribute to slope failures, pollute groundwater, or cause damage to or flooding of property. Drainage systems shall be designed and located to ensure slope stability.
- [9] Any grading, excavating or other soil disturbance conducted on a steep slope shall not direct surface water runoff over the receding edge during construction.

I. Woodland EPOD

- (1) Purpose. The purpose of the Woodland EPOD is to preserve and protect woodlands within the Town of Penfield by regulating or controlling development in those areas, and by requiring review and EPOD permit approval prior to project commencement.
- (2) Delineation of district boundaries. The boundaries of the Woodland EPOD shall be delineated on the Official Town of Penfield EPOD Maps, and shall include all areas in the Town of Penfield of five or more contiguous acres of tree canopy coverage. Areas that involve active orchards shall not be included in the Woodland EPOD.
- (3) Regulated activities. No person shall conduct any of the following regulated activities in a Woodland EPOD until an EPOD permit has been obtained. Activities exempt from the permit procedures of this article are provided in § 250-6.1, Subsection E titled "Exempt activities." The following regulated activities require a Woodland EPOD permit.
 - (a) Clearing that would remove more than 10 percent of the living trees with a DBH of twelve inches or more located within a Woodland EPOD boundary on the property.
 - (b) Commercial timber harvesting.

(4) Development standards and permit conditions.

- (a) Any application for a permit to undertake a regulated activity within a Woodland EPOD in the Town of Penfield shall be required to adequately demonstrate to the authorized official or the board having jurisdiction that the proposed activity will not produce long-term adverse impacts to any of the following:

[1] Soil stability.

[2] Velocity or rate of surface water runoff.

[3] Existing drainage systems.

[4] Natural characteristics of a watercourse.

[5] Protected wildlife habitats identified by the NYSDEC and US Fish and Wildlife.

[6] Steep slope areas.

[7] Water quality.

- (b) Additional permit application requirements for development within the Woodland EPOD.

[1] In addition to the application for permit requirements provided in § 250-6.1, Subsection F titled "Permit application procedures", the applicant shall provide a tree preservation plan at the same scale as other submitted site documents that includes:

[a] Location of all living trees, identified by species, with a DBH of twelve inches or more located within a Woodland EPOD boundary on the project parcel(s).

[b] Indication of whether the trees are to be preserved or removed.

[2] In planning site development plans, the applicant shall preserve as much of the original site vegetation, including understory, brush and shrubs, as possible. The use of Town Law § 278 should be considered when dealing with sites where stands of mature trees are present.

[3] Following approval and prior to commencement of earthwork, the applicant shall demonstrate compliance with the approved limits of disturbance by delineation with orange snow fencing or other acceptable means of delineation of these boundaries, at the discretion of the Planning Board, Town Board, or authorized official. The limits of disturbance shall embrace all tree canopy areas and extended root systems to be protected.

[4] The applicant shall install protective barriers around each tree or group of intended for preservation within the area of disturbance prior to the start of any construction or may, with the approval of the Planning Board, Town Board, or authorized official erect protective barriers around sections in which several trees are located. The barriers shall remain in place and be kept in good repair until all construction has been completed and removal of the barriers has been authorized

by the Town Engineer. This shall be covered in an appropriate section of a letter of credit.

[5] Trees which have been designated for preservation, including supplemental trees, shall be deemed to be required site improvements, and their preservation and replacement, as necessary, including the replacement of trees harmed during construction, shall remain the responsibility of the applicant. The trees required to be preserved shall be covered in the Letter of Credit. Prior to release of the letter of credit, the trees shall be inspected by the authorized official to ensure that they have not been irreparably harmed.

[6] Once all earthwork has been done, the applicant shall have the scheduled trees installed in the locations designated on the approved tree preservation or landscape plan.

J. Floodplain EPOD.

(1) Purpose. The Floodplain EPOD regulations are designed to protect areas of the Town located in floodplains and floodways in order to protect the health, safety and welfare of residents. These regulations, in conjunction with the regulations contained in Chapter 120 of the Penfield Town Code (Flood Damage Prevention) establish the Town's conformance with the development standards and guidelines set forth by the Federal Emergency Management Agency (FEMA).

(2) Delineation of district boundaries. The boundaries of the Floodplain Protection Overlay District shall be delineated on the Official Town of Penfield EPOD Maps, and as further identified in the FEMA Flood Insurance Rate Map (FIRM) and Flood Hazard Boundary Map, as amended or changed. Such maps are incorporated by reference herewith and declared to be a part of this subsection, and includes any future versions, replacements or additions to mapping required for the Town of Penfield's participation in the FEMA Flood Insurance Program.

(3) Regulated activities.

(a) See Chapter 120, Article III.

(4) Development standards and permit conditions.

(a) See Chapter 120, Article IV and V.

(5) Relief from standards.

(a) See Chapter 120, Article VI.

K. Stream EPOD

(1) Purpose. The purpose of the Stream EPOD regulations is to preserve and protect streams, creeks and tributaries located within the Town of Penfield by regulating or controlling development in those areas and by requiring review and permit approval prior to commencement of any activity.

- (2) Delineation of district boundaries. The boundaries of the Stream EPOD shall be delineated on the Official Town of Penfield EPOD Maps and shall include portions of properties within 75 feet of the center line of a natural or man-made stream, creek or tributary as classified by NYSDEC. The boundary shall not include drainage swales.
- (3) Exempt from clearing activities. The following activities shall be exempt from the clearing regulations of this subsection:
 - (a) Customary agricultural operations.
 - (b) Stream maintenance activities.
- (4) Regulated activities. No person shall conduct any of the following regulated activities in a Stream EPOD until an EPOD permit has been obtained. Activities exempt from the permit procedures of this article are provided in § 250-6.1, Subsection E titled "Exempt activities." The following regulated activities require a Stream EPOD permit.
 - (a) Clearing or filling, dredging, excavating, depositing of natural or man-made materials or engaging in any type of construction on areas within the Stream EPOD boundaries.
 - (b) The construction or placement of any septic tank or septic drainage field.
 - (c) Any activity which would alter the natural flow pattern of the stream, creek or tributary.
- (5) Development standards and permit conditions.
 - (a) Any application for a permit within a Stream EPOD shall be required to adequately demonstrate that the proposed regulated activity will not adversely impact the following now or in the future:
 - [1] Water quality.
 - [2] Watercourse flood-carrying capacities.
 - [3] Rate of sedimentation.
 - [4] Rate/Velocity of groundwater runoff.
 - [5] Natural characteristics of the watercourse.
 - (b) When altering the natural flow pattern of a natural or man-made watercourse, the applicant shall demonstrate that the appropriate NYSDEC permit has been granted.

Section 4. Revisions to Penfield Town Code Section 250-2-2 “Terms Defined”

The following edits are proposed to Section 250.2-2, with text additions denoted with an underline and text deletions denoted with a strikethrough.

CHECK ZONE

An area around a mapped Environmental Protection Overlay District (EPOD) in which the actual EPOD may occur. If a regulated activity encroaches into this area, applicants will be required to contact the Town Engineer to make a determination if an EPOD permit is required for the activity.

EARTHWORK

Construction activities, including clearing, grading, excavating, soil disturbance or placement of fill that result in land disturbance.

TREE PRESERVATION ZONE

~~All areas in the Town of Penfield of less than five acres with stands of trees measuring six inches or more in diameter at any point 4.5 feet above existing ground level.~~

WOODLAND PROTECTION DISTRICT

~~All areas in the Town of Penfield of five or more contiguous acres of woods and unique or sensitive areas of less than five acres, as identified on the woodland EPOD Map and further defined in § 250-6.1H. Areas of active orchards are not included.~~

Section 5. Addition to Chapter 250, Article VII.

The following addition shall be made.

250-7.23 Timber Harvesting.

A. Commercial timber harvesting will require a Timber Harvesting Permit through the Town. The following permit application requirements must be met before any proposed commercial timber harvesting can occur within the Town of Penfield.

- (1) The applicant shall contact NYSDEC and USACE to determine what, if any, permits are required by those agencies before activity can commence.
- (2) In addition to the application for permit requirements provided in § 250-6.1, Subsection F titled “Permit application procedures”, the applicant for such activity must submit a management plan prepared by a qualified consulting forester or a forest management recommendation prepared by a NYSDEC forester, which includes the following information:
 - (a) The species and sizes of living trees on the property having a DBH of twelve inches or more on the property before and after the proposed activity.
 - (b) The system of harvesting and access roads.

- (c) Definite time frame for the activity.
- (d) Proposed erosion and sedimentation control measures, including revegetation and timing, designed in conformance with guidance and standards set forth by the United States Department of Agriculture, Natural Resources Conservation Service.
- (e) The posting of a letter of credit or certified check provided in § 250-6.1, Subsection F (4) titled “Requirement for letter of credit/certified check” additionally including the following:
 - [1] A sufficient amount of funds to pay for completion of remedial measures upon failure of the applicant to meet the specifications of the plan, in an amount necessary to complete the anticipated work.
 - [2] The recording of timber sale contracts with the Town Clerk of the Town of Penfield.
- (f) Erosion protection structures shall be used to minimize soil erosion and sedimentation during tree harvesting activities and be designed and constructed according to generally accepted engineering principles found in the New York State Standards and Specifications for Erosion and Sediment Control (NYS Blue Book), as amended or changed.

Section 6. Severability

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

Section 7. Effective Date

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.