

Chapter 100
ENVIRONMENTAL QUALITY REVIEW

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[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor 12-12-1977 by L.L. No. 5-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning Board of Appeals — See Ch. 55.

Zoning — See Ch. 210.

§ 100-1. Definitions.

Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this chapter shall have the same meaning as those defined in § 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.

PLANNING BOARD — Planning Board of the Village of Pelham Manor.

VILLAGE — The incorporated Village of Pelham Manor.

VILLAGE BOARD — The Board of Trustees of the Village of Pelham Manor.

VILLAGE MANAGER — The Village Manager of the Village of Pelham Manor.
[Amended 1-23-1995 by L.L. No. 1-1995]

ZONING BOARD — The Board of Appeals of the Village of Pelham Manor.

§ 100-2. Exempt actions.

Actions completely exempt from the provisions of this chapter and requiring no process hereunder are defined in Sections 617.2 and 617.4(e) of Title 6 NYCRR and listed as Type II actions in Section 617.14 of Title 6 NYCRR and § 100-4 hereof. The following actions are also completely exempt from the provisions hereof:

- A. Building permits for any type of residential or commercial structure where its location has already been part of a subdivision, site plan, parking plan or other permit or approval process; which process included environmental review as a whole under this chapter; where such processing has resulted in an approval after proper environmental review; and where the construction is to follow the location, building style and type as approved in the process; and where the builder follows all mitigating or precautionary requirements of such approval documents (i.e., plat, plan, resolution, site development plan, etc.).
- B. Certificates of occupancy for any type of residential or commercial structure where either the building permit has been issued under exempt status classification, or issued after determination of exempt status in accordance with §§ 100-2 and 100-5 of this chapter.

§ 100-3. Compliance with these provisions and 6 NYCRR Part 617.

No decision to carry out or approve an action other than an exempt action as described in § 100-2 hereof shall be made by the Village Board or by any department, board, commission, officer or employee of the village, until there has been full compliance with all requirements of this chapter and Part 617 of Title 6 NYCRR; provided, however, that nothing herein shall be construed as prohibiting:

- A. The granting of an approval or conditional approval which is made subject to compliance with all provisions of a satisfactorily completed and approved environmental review in accordance with the provisions of this chapter and Part 617 of Title 6 NYCRR; or
- B. The informal submission of a plan or descriptive material by an individual group or organization to any agency or Board for discussion purposes only, which may lead to a formal submitted application or formal preapplication process, which discussion and review will not commit the village or any agency or Board thereof to any approval or course of action.

§ 100-4. Actions having and not having a significant effect on the environment.

- A. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in Section 617.14 of Title 6 NYCRR as Type I actions, are likely to have a significant effect on the environment:
 - (1) A residential development that includes 50 or more units.
- B. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in Section 617.14 of Title 6 NYCRR as Type II actions are deemed not to have a significant effect on the environment:

(RESERVED)

§ 100-5. Initial screening statement (ISS).

- A. For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals, when denied exempt status by the Village Manager, shall file a written statement with the Village Manager setting forth the name of the applicant, the location of the real property affected, if any, and a description of the proposed action. Such statement shall also include any claim that the proposed action is an exempt action under § 100-2 hereof; the estimated total cost of the action; and if no claim is made that the proposed action is an exempt action, a detailed explanation of the reasons why, in the view of the applicant, a proposed action may or will not have a significant effect on the environment. [Amended 1-23-1995 by L.L. No. 1-1995]
- B. Where the action involves an application, the statement shall be filed simultaneously with the application for the action.
- C. The statement provided herein shall be upon a form provided by the Village of Pelham Manor and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory materials required by the Village Manager. [Amended 1-23-1995 by L.L. No. 1-1995]

§ 100-6. Notice of proposed action. [Amended 1-23-1995 by L.L. No. 1-1995]

Upon receipt of a complete application and a statement, the Village Manager shall cause a notice to be published in the official newspaper of the village, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the Village Manager, until the 15th day following the date of the notice.

§ 100-7. Initial determination.

- A. The Village Manager shall render a written determination on such application within seven days of the date specified in the notice provided for in § 100-6 hereof; provided, however, that such period may be extended by mutual agreement of the applicant and the Village Manager. The Village Manager may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application. [Amended 1-23-1995 by L.L. No. 1-1995]
- B. The time limitations provided in this chapter shall be coordinated, to the extent practicable, with other time limitations provided by statute or local law, ordinance or regulation of the village.

§ 100-8. Determinations on ISS. [Amended 1-23-1995 by L.L. No. 1-1995]

- A. If the Village Manager determines that the proposed action is an exempt action or Type II action as heretofore defined, his or her determination shall so state and the proposed action may be processed without further regard to this chapter.

- B. Except as provided in Subsection A of this section, if the Village Manager determines that the proposed action will not have a significant effect on the environment, the Village Manager shall file such determination and written findings supporting such determination as provided in Section 617.9(b) of Title 6 NYCRR and hereafter the proposed action may be processed without further regard to this chapter.
- C. If the Village Manager determines that the proposed action may have a significant effect on the environment, he or she shall file such determination and written findings supporting such determination as provided in Section 617.9(b) of Title 6 NYCRR and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this chapter and Part 617 of Title 6 NYCRR.

§ 100-9. Draft environmental impact statement.

- A. [Amended 1-23-1995 by L.L. No. 1-1995] Following a determination that a proposed action may have significant effect on the environment, the Village Manager shall, in accordance with the provisions of Part 617 of Title 6 NYCRR:
 - (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and direct the applicant to prepare an environmental impact report in the form of a draft environmental impact statement (DEIS) which will be necessary before the Village Manager will further process the application. If the applicant does not prepare the DEIS, his application will not be processed toward approval.
 - (2) In the case of an action not involving an applicant, prepare a draft environmental impact statement.
- B. With the application fee as established for action by any agency or Board for approval or permit under their jurisdiction, should a DEIS be required under this chapter, as part of the application documents, the applicant shall tender an additional fee for the review and processing of the DEIS. This additional fee shall be a sum equal to: 2/10 of 1% of the action's total estimated land and construction cost to the applicant, plus the cost of newspaper publication as required, plus the cost of duplication should the statement not be received in sufficient copies to effect proper review and distribution. The estimation of land and construction cost shall accompany the application, for verification of the amount of the fee.

§ 100-10. Notice of completion of DEIS. [Amended 1-23-1995 by L.L. No. 1-1995]

Upon completion of a draft environmental impact statement prepared by or at the direction of the Village Manager, a notice of completion containing the information specified in Section 617.9(e) of Title 6 NYCRR shall be prepared, filed and circulated as provided in Section 617.9(f) and (g) of Title 6 NYCRR. In addition, it shall be published in the official newspaper of the village. Copies of the draft environmental impact statement shall be filed, sent and made available as provided in Section 617.7(g) of Title 6 NYCRR.

§ 100-11. Public hearing on DEIS.

If the Board having jurisdiction of the application determines to hold a public hearing on a draft environmental impact statement, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspaper of the Village at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received. Such hearing shall commence no less than 15 calendar days nor more than 60 calendar days after the filing of the draft environmental impact statement; provided, however, that the Board having jurisdiction may extend this time if necessary for public or other agency review of the draft environmental impact statement or where a different hearing date is required or appropriate under other applicable law or procedure.

§ 100-12. Determinations on DEIS.

If, on the basis of a draft environmental impact statement or a public hearing thereon, the Board having jurisdiction makes a written determination that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this chapter.

§ 100-13. Final environmental impact statement (FEIS).

- A. Except as otherwise provided herein, the Board having jurisdiction shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR. If the action involves an application, the final environmental impact statement shall be prepared by the applicant.
- B. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs; provided, however, the Board having jurisdiction may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification.
- C. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in this subsection to defray the expenses of the Village incurred or to be incurred in preparing and/or evaluating impact statements under this chapter. The fee shall be determined as follows:

Amount of Fee to be Paid on Filing of FEIS

Estimated Total Land and Construction

Cost of Proposed Action	Fee
Less than \$50,000	\$100
More than \$50,000 and less than \$200,000	\$250 + 1/4 of 1% of estimated total cost of action

- B. Similarly, where a disapproval of an application for an action includes a disapproval of the Final EIS, or where a Final EIS is approved, but the action disapproved, the basis for such disapproval shall be directly referenced and documented in such determination.

(Cont'd on page 10007)

Amount of Fee to be Paid on Filing of FEIS

**Estimated Total Land and Construction
Cost of Proposed Action**

Fee

More than \$200,000 and
less than \$2,000,000

\$500 + $\frac{1}{4}$ of 1% of
estimated total cost
of action

More than \$2,000,000

\$1,000 + $\frac{1}{4}$ of 1% of
estimated total cost
of action

D. A verified estimation of the total land and construction cost shall be filed with the FEIS.

§ 100-14. Notice of completion of FEIS.

A notice of completion of a final environmental impact statement shall be prepared, filed and sent in the same manner as provided in § 100-10 herein and shall be sent to all persons to whom the notice of completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

§ 100-15. Approval of action.

No decision to carry out or approve an action which has been the subject of a environmental impact statement shall be made by any Village agency or officer until after the filing and consideration of the final environmental impact statement. The Board having jurisdiction shall make a decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

§ 100-16. Required determination.

- A. When the Board having jurisdiction decides to carry out or approve an action which may have a significant effect on the environment it shall make the following findings in a written determination, which shall, in all appropriate cases, be referenced in and part of any decision to approve the action:
- (1) Consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives hereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements; and
 - (2) All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects, including the effects disclosed in the relevant environmental impact statements.

§ 100-17. Filing of required determination.

For public information, a copy of the determination referred to in § 100-14 herein shall be filed and made available as provided in Part 617.10(c) of Title 6 NYCRR.

§ 100-18. Public records.

The village shall maintain files open for public inspection of all notices of completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by any village agency or officer.

§ 100-19. Procedures where multiple agencies involved in action.

Where more than one agency is involved in an action, the procedures of Sections 617.6 and 617.10 of Part 617 of Title 6 NYCRR shall be followed.

§ 100-20. Actions prior to effective date.

Actions undertaken or approved prior to the dates specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this chapter and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR; provided, however, that if, after such dates the village or any of its departments, boards, commissions, officers or employees having jurisdiction modifies an action undertaken or approved prior to that date and the Board having jurisdiction determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this chapter and Part 617 of Title 6 NYCRR.