

TOWN OF SHAWANGUNK

INTRODUCTORY LOCAL LAW NO. 4 OF 2009

ENTITLED “FILING SUBDIVISION PLATS IN SECTIONS”

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

SECTION 1 – STATEMENT OF FINDINGS AND PURPOSE

The Town Board finds and determines that it is in the public interest to provide a local procedure to authorize the Town Board, in its sole discretion and for good cause, to extend the time within which approval sections of subdivision plats must be filed with the Ulster County Clerk. Currently, the New York State Town Law at Section 276 (11), requires all plat sections to be filed with the County Clerk within three years of the filing of the first section with the County Clerk.

The Town Board further finds and determines that absent this local procedure, subdividers will be compelled to post performance security and/or construct the subdivision roads and drainage and related improvements long before those improvements are needed to service homes in the subdivisions. Land disturbances will occur prematurely in the event that there is no local process to extend the filing deadlines imposed by Town Law 276 (11). Alternatively, subdividers that cannot meet the subdivision plat filing deadlines, will be forced to reapply to the Town of Shawangunk Planning Board and seek reapproval of the

originally approved plat, a process that may cause redundancy and/or an inefficient use of the resources of both the public and private sector.

The Town Board further finds that review and deciding extension requests shall be a Town Board matter as the dedication of public improvements, the posting of performance security and the ultimate acceptance of those improvements all are matters for the Town Board and the Town Highway Superintendent.

Section II – STATEMENT OF AUTHORITY

This local law is authorized by the New York State Constitution, including Article IX, Section 2, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the Zoning Laws and land-use regulations of the Town of Shawangunk and the general police power vested with the Town of Shawangunk to promote the health, safety and welfare of all of the residents and all of the property owners in the Town.

Section III – AMENDMENTS

The Subdivision Regulations of the Town of Shawangunk, also known as Chapter 152 of the Code of the Town hereby is amended to add the following provisions at Section 152-11:

1. The existing text shall be labeled Subsection “A”.
2. The following shall be inserted as new Section 152-11(B):
 1. The Planning Board retains the sole authority and discretion to require any subdivider to file the entire subdivision plat with the Ulster County Clerk in one (1) section or to allow the subdivider to prepare and file individual sections of the plat per all of the requirements of Town Law 276 (7) b and 276 (11) except as modified by this Subsection B.

2. In the event that the Planning Board elects to allow a subdivider the ability to prepare and file such plats in sections and in the further event that the first section has been filed with the Ulster County Clerk and the remaining sections all have been filed with the Town of Shawangunk Clerk, the owner of the remaining sections may petition the Town Board in writing outlining all of the details surrounding the request to extend the three (3) year filing deadline imposed by Town Law 276 (11) and identifying the public interest to be served if the extension were to be granted.
3. Such written petition may not be filed with the Town Board earlier than two (2) years after the date of the filing of the first section with the County Clerk nor later than ninety (90) days prior to the expiration of the three (3) year period. The Town Board, in its sole discretion, may elect to waive these filing timeframes for good cause.
4. The Town Board shall refer the request to the Town of Shawangunk Planning Board and the Ulster County Planning Board for advice and comment and shall provide at least forty-five (45) days for receipt of any written recommendations from these boards or their designees.
5. The Town Board may, but is not required to, hold a public hearing on the request to extend the filing deadlines.
6. After receipt of the written comments of the Ulster County Planning Board and of the Town of Shawangunk Planning Board or after a period of forty-five (45) days from referral, if no public hearing is held, the Town Board shall rule on such petition. If a public hearing is held, the Town Board shall rule on such petition within 45 days after the closing of the public hearing.
7. The Town Board determines that for certain subdivisions there may be an absence of good cause to grant the extension or there may have occurred a change of circumstances involving the subject lands and/or the lands in the general neighborhood and/or there may be proposed or adopted amendments to the land use plans, laws or regulations of the Town or other regulatory or legislative bodies since the time of original Planning Board final approval. Therefore, the Town Board, in its sole discretion, may elect to deny a request to extend the subdivision plat filing deadline. The Town Board finds

that, while extensions of the Town Law 276 (11) may be granted by the Town Board, a subdivider or landowner shall gain no additional property interests or rights by virtue of the adoption of this local law.

8. The Town Board, in its sole discretion, may grant the petition as requested or may modify the amount of time of the requested extension and grant the petition with modifications or may deny the petition. Notwithstanding, if the Town of Shawangunk Planning Board recommends that the petition be denied or if the Ulster County Planning Board provides a mandatory comment that the petition should be denied, the Town Board only may approve the petition with a majority plus one vote.
9. The petitioner shall be solely responsible for all of the Town's reasonable costs, expenses and consultant's reviews related to the review and decision on the petition. The Town Board may establish an initial escrow and may require the same to be replenished as a condition of the initial and continued review of the petition.

Section IV - SUPERCESSION OF STATE LAW

This local law is not intended to be inconsistent with any provisions of Section 276 of the Town Law that are of general applicability. However, to the extent the authority granted to the Town of Shawangunk Town Board to extend the time provided to file sections of a subdivision plat approved by the Planning Board is deemed inconsistent with the provisions of Section 276(11) of the Town Law, the Town Board specifically supercedes said provision only to the extent that under this local law the Town Board may, but is not obligated to, extend the three (3) year filing period.

The Town Board is aware that subdivision 11 of Section 276 of the Town Law of the State of New York, as amended by Chapter 423, Section 10, of the Session Laws of 1995, effective Nov. 30, 1995, authorizes an owner, with the permission of the Planning Board, to file an approved subdivision plat in sections, and specifically provides, in relevant part, that following the initial filing of a section of the approved

plan, the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the three (3) year exemption period to which such plat is entitled under the provisions of subdivision two of Section 265-a of the Town Law.

The Town Board hereby declares its legislative intent to supercede so much of the last sentence of Town Law Section 276(11) to provide that the three (3) year period may be extended by the Town Board in its sole discretion and for good cause.

The Town Board requests that any court reviewing this local law take notice of the legislative intent and findings and to construe the purpose and operation of the provisions of this local law in a manner consistent with such intent and findings.

Section V – SEVERABILITY

If any section or subsection, paragraph, clause, phrase or provision of this local law shall be adjudged invalid for any reason or shall be deleted or subsequently repealed, the same shall not affect the validity of this local law as a whole or any part or provisions hereof other than the part to be adjudged to be invalid and/or deleted and/or subsequently repealed.

The determination by any court of competent jurisdiction that any provisions of the within local law is unenforceable, invalid, void, unconstitutional or in conflict with federal or state law shall not in any way affect the enforceability or validity of any other provisions contained herein.

Section VI. EFFECTIVE DATE.

This local law shall take effect immediately upon publication and filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.

BE IT ENACTED THIS _____ DAY OF _____, 2010 BY THE
TOWN BOARD OF THE TOWN OF SHAWANGUNK, COUNTY OF ULSTER,
STATE OF NEW YORK.

JOHN VALK, JR., SUPERVISOR
ADRIAN M. DEWITT, COUNCILMAN
ROBERT T. MILLER, COUNCILMAN
BRIAN AMTHOR, COUNCILMAN
MATTHEW WATKINS, COUNCILMAN

MARGARET Y. TREMPER, TOWN CLERK
TOWN OF SHAWANGUNK

ATTEST:

TOWN SEAL: