

**RESOLUTION  
TOWN BOARD OF THE TOWN OF KENT**

Councilperson \_\_\_\_\_, seconded by Councilperson \_\_\_\_\_, introduced the following proposed local law, to be known as Local Law No. \_\_\_\_\_ of 2011, entitled A LOCAL LAW OF THE TOWN OF KENT, PUTNAM COUNTY, NEW YORK TO AMEND CHAPTER 77 “ZONING” OF THE TOWN CODE OF THE TOWN OF KENT TO ADD AN “OFFICE PARK OVERLAY DISTRICT”.

WHEREAS, the Town Board of the Town of Kent has reviewed an amendment to Chapter 77 of the Town Code to add language that would permit the establishment of an Office Park under prescribed circumstances on property located in the R-80 District; and

WHEREAS, the amendment is not an authorization to establish or to create an Office Park but is an amendment that would allow an applicant to seek an approval for a zoning map amendment to create an Office Park on one or more properties subject to environmental review and site plan and subdivision approvals from the Planning Board; and

WHEREAS, the action to amend Chapter 77 of the Town Code pertaining to an Office Park Overlay District is an Unlisted Action under the New York State Environmental Quality Review Act regulations; and

WHEREAS, the Town Board has determined that the proposed amendment must be referred to the Putnam County Department of Planning and to the Town Planning Board for review and recommendation.

NOW THEREFORE BE IT RESOLVED, the Town Board hereby sets a public hearing on the proposed amendment to Article XII of Chapter 77 of the Town of Kent Code for April 19, 2011, at 7:00 PM, or as soon thereafter as the matter may come to be heard, in the Town Hall, Town of Kent, 25 Sybil's Crossing, Kent Lakes, New York; and

BE IT FURTHER RESOLVED, The Town Board hereby states that because only the Town Board can consider and adopt changes to the Town Code that it is the only involved

agency, and the Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law; and

BE IT FURTHER RESOLVED, The Town Board refers this matter to the Putnam County Department of Planning and Economic Development for a recommendation pursuant to GML 239-m; and

BE IT FURTHER RESOLVED, The Town Board refers this matter to the Planning Board for an advisory report pursuant to §77-63 of the Town Code; and

BE IT FURTHER RESOLVED, The Town Board directs the Town Clerk to notify the Town Clerks of each of the surrounding towns of the date, the time, and the purpose of the public hearing pursuant to GML 239-nn.

BE IT ENACTED by the Town Board of the Town of Kent as follows:

SECTION 1. Article XII of Chapter 77 of the Town of Kent Code shall be amended to add a new §77-44.8 as follows:

§77-44.8 Office Park Overlay District (“OPOD”)

- A) Purpose. It is the propose of this section to encourage the development of well-designed Office Parks, including sites where existing highway residential, business, retail, and industrial uses have fallen into disuse or are in a run-down or blighted condition, as well as those sites that have not been developed but have sufficient land area and highway access that, with careful attention to design and avoidance of adverse environmental effects, can be developed for Office Park use. It has been determined that the physical integration of mixed-use business and ancillary business support uses will provide a more coherent land use pattern, thereby preserving property values and maintaining the visual and aesthetic environment. Further, a properly planned Office Park will provide area residents with employment opportunities and help strengthen the local tax base.
- B) Requirements.

- 1) The Office Park Overlay District designation may be permitted, at the sole discretion of the Town Board, as a Zoning Map amendment subject to such additional terms and conditions as the Town Board may require, at locations within the R-80 One-Family Residence Zoning District which meet the use, dimensional, and area requirements, and the General Requirements and the Design Criteria set forth herein. Site Plan Approval, and Subdivision Approval if applicable, by the Planning Board shall also be required.
- 2) Permitted uses. Unless restricted by the Town Board in its resolution of zoning amendment approval, the following uses are permitted:
  - a) Light industrial uses as follows:
    - (i) Beverage bottling, distribution and warehousing.
    - (ii) Contractors offices and storage buildings; including general contractors, plumbers, electricians, heating, ventilating, air conditioning contractors, masons, painters, refrigeration contractors, roofing contractors, and other such construction occupations.
    - (iii) Distribution centers.
    - (iv) Ice production, storage, sales and distribution.
    - (v) Light manufacturing and assembly of precision instruments and equipment such as watches, electronics, photographic equipment, optical goods and similar products.
    - (vi) Research and development including laboratories for research, testing and experimental purposes.
    - (vii) Warehousing and storage.
  - b) Museum.
  - c) Offices for business and professional use.

- d) Parking garages.
  - e) Temporary buildings and structures during construction only.
  - f) Accessory buildings and structures.
- 3) Prohibited uses:
- a) Any uses involving the bulk storage of chemicals, processes or materials that might constitute a potential explosive or environmental hazard; slaughter plants, packing houses, animal by-products rendering, and other such animal processing activities; automobile junkyards, salvage and reclamation yards, and related facilities; processing or production of oil, natural gas, geothermal resources or other hydrocarbons.
- 4) Area and dimensional requirements.
- a) The parent parcel proposed for development as an Office Park Overlay District (OPOD) shall contain at least twenty-five (25) contiguous acres of land. In addition said parent parcel shall have:
    - (i) A minimum of 200 feet (continuous and unbroken) of road frontage on either an existing state or county highway; or
    - (ii) Access rights via an easement agreement to an existing state or county highway wherein the burdened property has a minimum of 200 feet (continuous and unbroken) of road frontage on the state or county highway. The easement access way shall be capable of being improved to accommodate a driveway or private road designed and constructed so as to provide safe all-weather access for emergency vehicles and the anticipated volume and type of vehicle traffic into and out of the Office Park.
  - b) The maximum total lot coverage may be up to 50% of the total site, and the maximum building height shall be fifty (50) feet.

- c) For any building or structure yard the individual yard setbacks shall be as approved by the Planning Board but the minimum setback from the state or county highway right-of-way shall not be less than 75 feet, and no part of any building or parking area shall be closer than 100 feet to any other property line adjoining the boundaries of the parent parcel, except where the Office Park development abuts a residential property a residential district in which case the setback from the adjoining residential property line shall be no less than 200 feet. The Planning Board shall also determine the minimum sizes of each of lot within the Office Park.
- d) An Office Park may be subdivided into two (2) or more parcels provided that a reciprocal easement agreement approved by the Planning Board as part of the site plan and subdivision approval process is executed and recorded with the Putnam County Clerk. Said reciprocal easement agreement shall require that such subdivided parcels, for so long as the Office Park use exists, shall function as one integrated parcel for ingress and egress, parking, internal circulation, water service, sanitary sewage disposal, and storm drainage. The overall Office Park, however, disregarding the individual lot lines created by any subdivision, shall comply with the dimensional and area requirements of this Chapter.
- e) For the purpose of enhancing design flexibility, including the enhancement of the visual appearance of an Office Park, and for the purpose of reducing the amount of lot area devoted to surface parking, the creation of structured parking in parking garages is encouraged.
- 5) No Office Park shall be approved unless connected to water supply facilities and sewage treatment and disposal facilities adequate to service the Office Park.
- 6) All utilities, including electric and communications lines shall be installed underground unless waived by the Planning Board.
- 7) Sidewalks, where required by the Planning Board, shall be no less than 6 feet wide and shall be designed to provide circulation between principal structures

and accessory uses and adjacent properties as deemed appropriate by the Planning Board.

- C) Performance standards. Except as set forth herein, all uses within the Office Park shall comply with any other performance standard of this Chapter.
- D) Design criteria. The intention of this subsection is to create an architecturally coherent development in which building design, detail, form, shape, color and the like integrate with the other aspects of the development, including landscaping, site topography, parking lot design, open space and architectural character of the surrounding area. In addition, Office Parks shall be subject to the following design requirements:
  - 1) All exterior lighting shall be pursuant to §77-44.3, “Lighting”, of this Chapter.
  - 2) Applicable provisions of §77-60, “Approval of site plans”, of this Chapter.
  - 3) Not less than thirty (30%) percent of the total gross lot area (i.e. the original parent parcel) shall be landscaped. Unless modified or waived by the Planning Board a landscaped buffer area of not less than twenty-five (25) feet in depth shall be provided along perimeter of the parent parcel, and not less than ten (10%) percent of the interior (i.e. non-perimeter) area of any parking lot shall be landscaped. Roads, pathways, and sidewalks providing access through a landscape buffer are permitted.
  - 4) Off-street parking and loading shall be in accordance with §77-38, “Off-street parking” of this Chapter. In approving any parking and loading design the Planning Board shall determine the location and number of spaces provided for parking and loading so as to establish safe and comfortable passageways for pedestrians. The parking design shall provide such parking spaces as the Planning Board shall determine to be necessary, considering the activities and uses involved and the differing parking demands of mixed-use Office Parks.
  - 5) Private roads and driveways within the Office Park shall be designed and constructed in accordance with Chapter 61, “Roads and Driveways” of this

Chapter.

- 6) Wherever an adjacent commercial site has been developed or it is reasonably expected that it will be developed, parking and circulation shall, where practicable, be interconnected to limit access points onto main roads.
- E) Procedure. The review and approval of an application for a Office Park Overlay District designation shall be as follows:
- 1) Town Board Review. An application for an Office Park Overlay District designation shall be submitted to the Town Board on such form(s) as the Town Board may designate, and shall include a completed Part 1 Long Form Environmental Assessment Form (EAF). The application shall be accompanied by a fee in an amount set by the Town Board together with a review fee in accordance with Chapter 55 of the Town Code. Upon receipt of an application and EAF, including the application fee and review fee, the Town Board shall notify the applicant of the place, date, and time of the meeting at which the application is to be considered, and shall refer the application to the Planning Board for review and recommendation pursuant to Article XVIII of Chapter 77 of the Town Code. The applicant or the applicant's representatives shall be present at meetings of the Town Board at which the application is to be considered.
  - 2) Planning Board review. Within ninety (90) days of receipt of the application from the Town Board the Planning Board shall make a recommendation to the Town Board as to whether, in the opinion of the Planning Board, the application supports an Office Park Overlay District designation. The applicant or the applicant's representatives shall be present at the meetings of the Planning Board at which the application is to be considered. Failure of the Planning Board to provide a recommendation within the specified time shall be deemed a recommendation to approve the application.
  - 3) SEQRA review. No application for an Office Park Overlay District Designation shall be complete until a lead agency is established, and a Negative Declaration has been issued or a Draft Environmental Impact Statement has been issued by

the lead agency as satisfactory with respect to scope, content and adequacy.

- 4) Public hearing and notice. Any public hearing convened by the Town Board for an application for Office Park Overlay District designation shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing is held or fourteen (14) days before a hearing held jointly on a Draft Environmental Impact Statement (DEIS). All notices shall include the name of the project and its street location, and the date, time, place, and subject of the public hearing. Such notice shall not be required for adjourned dates. In addition, the applicant shall mail a copy of the public hearing notice, U.S. First Class certified mail, return receipt requested, to owners of neighboring properties within 300 feet of the project site. In addition:
  - a) Agricultural data statement. If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, the application must include an agricultural data statement containing the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
  - b) County Referral. Prior to action on an application a copy of said application shall be forwarded to the Putnam County Division of Planning for review pursuant to General Municipal Law 239-m if the boundary of the property that is the subject of the application is located within five hundred (500) feet of:
    - (i) The boundary of any city, village, or town; or

- (ii) The boundary of any existing or proposed county or state park or other recreation area; or
  - (iii) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
  - (iv) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
  - (v) The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
  - (vi) The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law.
- c) Notice to park commission. At least five (5) days before such hearing a copy of the public hearing notice shall be mailed to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the project site.
- d) Referral to Neighboring Municipalities. Pursuant to General Municipal Law §239-nn, for a project site located within five hundred (500) feet of an adjacent municipality notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than ten (10) days prior to the date of said hearing.
- 5) Town Board action. Within ninety (90) days of receipt of a complete application, including the recommendation (if any) from the Planning Board, the Town Board shall hold a public hearing on the application for an Office Park Overlay District designation. Within ninety (90) days of the close of the public hearing the Town Board shall act to approve, approve with modifications, or disapprove the request for an Office Park Overlay District designation. The time within which the Board must render its decision may be extended for such additional time as the

Board may deem reasonable or necessary to render a decision. The failure of the Board to take action within 90 days of the close of the public hearing, or within such additional time period as may be agreed to or established by the Board shall not result in, and shall not be construed to result in, a default approval of the application. The Board may, if it feels necessary to fully protect the public health, safety and welfare of the community, attach to the designation any reasonable conditions or requirements for the applicant to meet. The decision of the Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.

- 6) Site plan approval. Site Plan review and approval by the Planning Board as provided in Article XIII of this Chapter shall be required prior to commencement of any site work or the issuance of a building permit. Changes to a previously approved site plan shall also require site plan approval.
- 7) Subdivision approval. If the development proposal involves the subdivision of land as defined in this Chapter and Chapter 177, the subdivision approval pursuant to Chapter 177 shall be required prior to commencement of any site work or the issuance of a building permit. Changes to a previously approved subdivision plat shall also require re-subdivision approval.
- 8) Conformity with district designation required. The Planning Board shall not approve any site plan and/or subdivision that are not in substantial conformance with the Office Park Overlay District designation granted by the Town Board or with any conditions impose upon such designation.
- 9) Time Limits. If construction work on the proposed Office Park development is not begun within two (2) years of the date of the Town Board approval of the Office Park Overlay District and completed within 2 years of the date of Planning Board site plan and/or subdivision approval, then such designation shall become null and void and all rights therein shall cease unless the Town Board, for good cause, authorizes an extension.

SECTION 2. Severability. If any section, subsection or specific part or provision or standard of this local law or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such section, subsection or specific part or provision or standard shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions thereof.

SECTION 3. This local law shall take effect immediately upon filing with this state's Secretary of State.