

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of EAST GREENBUSH

**FILED**  
**STATE RECORDS**  
**DEC 27 2018**  
**DEPARTMENT OF STATE**

Local Law No. 5 of the year 2018

A local law A LOCAL LAW REPEALING LOCAL LAW NO. 1 OF THE YEAR 2010, IN RELATION TO  
(Insert Title)  
MITIGATION FEES IN THE WESTERN EAST GREENBUSH GENERIC  
ENVIRONMENTAL IMPACT STATEMENT(GEIS) STUDY AREA, AND REPLACING IT  
WITH NEW PROVISIONS

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of East Greenbush as follows:

Be it enacted by the Town Board of the Town of East Greenbush as follows:

Local number 1 of 2010 is repealed and replaced by the following:

Section 1. Statement of Purpose. The Town Board prepared a Generic Environmental Impact Statement (GEIS), dated July 2009, to evaluate the cumulative impacts of potential future development in the Town in order to plan for and mitigate impacts due to growth. The formulation of this GEIS initiated an evaluation of the cumulative impacts associated with continued growth on the Town's transportation network, water and sewer infrastructure, stormwater management program and recreational resource inventory. The GEIS was limited to the Western East Greenbush Generic Environmental Impact Statement (GEIS) Study Area, the geographic area for which this law is to apply. It is the intent of this law to provide an equitable means of distributing the cost of the improvements identified in the GEIS, requiring developers to contribute their fair share of the development impact without carrying an unnecessary burden often associated with capital improvement costs. It is further the purpose and intent of this law to apply mitigation fees to all development projects within the identified Western East Greenbush GEIS Study Area for which a SEQRA determination has not yet been made, the amount of which shall depend on the time of submittal of a development application.

Section 2. Definitions.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

"Building permit" shall mean a document issued by the Building Inspector in accordance with Section 4.1.4 of the Comprehensive Zoning Law or other rules, regulations, and/or form issued by the Building Inspector in accordance with Section 4.1.1 of the Comprehensive Zoning Law.

"Certificate of Occupancy" shall mean a document issued by the Building Inspector in accordance with Section 4.1.5 of the Comprehensive Zoning Law.

"Commence Construction." shall mean issuance of a building permit.

"Development application" shall mean submission of a request for site plan, subdivision, and/or building permit approval in accordance with Town Code.

"Equivalent Dwelling Unit (EDU)" shall mean an estimate of water consumption and wastewater generation at a rate of 200 gallons per day.

"Certificate of compliance" shall mean a document issued by the Building Inspector in accordance with Section 4.1.1 of the Comprehensive Zoning Law.

"Gross Floor Area" shall mean the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts, according to the International Building Code.

"Project" shall be defined as any action that requires a development application and for which a complete development application is submitted.

"SEQRA Determination" shall mean that the lead agency has discharged its responsibilities under 6 CRR-NY 617 and determined whether or not the proposed project will have a significant adverse impact on the environment in accordance with 6 CRR-NY 617.7.

"Western East Greenbush Generic Environmental Impact Statement (GEIS) Study Area" shall mean that geographic area as set forth by a map entitled "Map 1: Base Map – Study Area" in the July 2009 Western East Greenbush Final Generic Environmental Impact Statement (GEIS), which map is attached as Figure 1.

### **Section 3. Amount of Mitigation Fees.**

- A. The mitigation fees for projects located within the Western East Greenbush Generic Environmental Impact Statement (GEIS) Study Area, dated July 2009, shall be calculated and assessed according to the attached Schedule A.
- B. Projects Submitted After the Effective Date of Local Law 1 of 2010. Such projects shall pay 100% of the fees set forth in the section above.
- C. Previously Submitted Projects For Which No SEQRA Determination Was Made. For previously submitted projects for which no SEQRA determination has been

made, mitigation fees shall be assessed in a phased implementation based upon the date on which the development application was formally submitted to the Town for processing. The phased implementation of these fees will be applied as follows:

1. Applications submitted before or during 2005 will be assessed a 16% discount from the total calculated GEIS mitigation fees due to the Town;
2. Applications submitted during 2006 will be assessed a 12% discount from the total calculated GEIS mitigation fees due to the Town;
3. Applications submitted during 2007 will be assessed an 8% discount from the total calculated GEIS mitigation fees due to the Town;
4. Applications submitted during 2008 will be assessed a 4% discount from the total calculated GEIS mitigation fees due to the Town;
5. Applications submitted during 2009, and thereafter, will be assessed 100% of the total calculated GEIS mitigation fees due to the Town.

**Section 4. Timing of Mitigation Fee Payment.** Projects submitted shall be required to make payments according to the provisions included in the attached Schedule A. Projects submitted prior to the effective date of this law, for which a SEQRA Determination has been made, and for which fees are due shall be required to make payments according to the provisions in Schedule A.

**Section 5. Notification of Fee Assessment.** The Director of Planning and Zoning shall issue a GEIS mitigation Fee Letter for projects that require the assessment of GEIS mitigation fees in accordance with this local law. All Fee Letters shall be issued after a development application has received approval from the Planning Board and/or Town Board. The GEIS mitigation fee schedule and (where practicable) an estimate of GEIS mitigation fees shall be given upon submission of a complete development application.

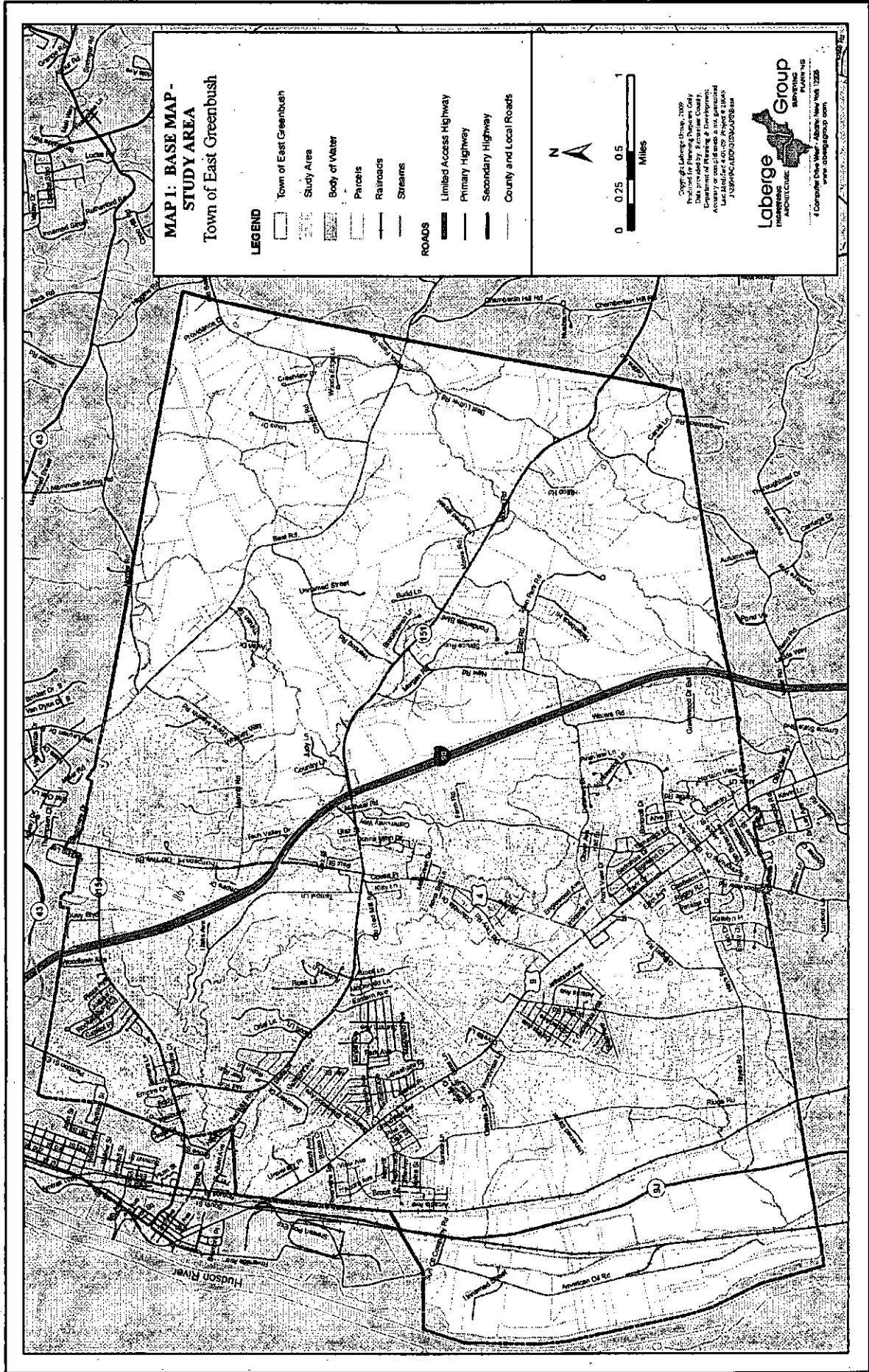
**Section 6. GEIS Policy Committee.** The Town shall establish a committee to oversee GEIS mitigation fee assessment and accounting of GEIS mitigation fees. The membership of the GEIS Policy Committee shall consist of the following municipal positions: Town Supervisor, Town Services Coordinator, Commissioner of Public Works, Director of Planning and Zoning, and one (1) Town Board member.

**Section 7. GEIS Mitigation Fee Accounting.** GEIS mitigation fees collected in accordance with this local law shall be kept in subordinate designated accounts not to be intermingled with general municipal funds. Five subordinate designated accounts shall be established as follows: GEIS Administration, Land Use and GIS, Water/Sewer, Recreation, and Traffic.

**Section 8. Severability Clause.** Should any portion of this law be struck, the remaining portions of the law shall remain in full force and effect.

**Section 9. Effective Date.** This law shall take effect immediately.

Figure 1. Western East Greenbush Generic Environmental Impact Statement (GEIS) Study Area



**Schedule A – Amount of Mitigation Fees and Timing of Payment**

Category	Use	Rate	Unit of Measure	Payment Due
GEIS	All	\$52.29	Per Peak PM Trip	Prior to approval to commence construction
Land Use & GEIS	All	\$5.67	Per Peak PM Trip	Prior to approval to commence construction
Water/ Sewer	Residential	\$5,100.00	Per Dwelling Unit or per EDU for Multi-Family	One third (1/3) due prior to approval to commence construction; One third (1/3) due prior to issuance of each building permit; One third (1/3) due prior to issuance of certificate of occupancy for each dwelling unit
	Non-residential	\$5,100.00	Per EDU	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or compliance
Recreation	Residential	\$1,000.00	Per Dwelling Unit	One third (1/3) due prior to approval to commence construction; One third (1/3) due prior to issuance of each building permit; One third (1/3) due prior to issuance of certificate of occupancy for each dwelling unit
	Non-residential	\$0.98	Per square foot of gross floor area of building	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or compliance
Traffic	Residential	\$1,325.00	Per Dwelling Unit	One third (1/3) due prior to approval to commence construction; One third (1/3) due prior to issuance of each building permit; One third (1/3) due prior to issuance of certificate of occupancy for each dwelling unit
	Retail	\$4.91	Per square foot of gross floor area of building	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or certificate of compliance
	Office	\$2.27	Per square foot of gross floor area of building	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or certificate of compliance

**Schedule A – Amount of Mitigation Fees and Timing of Payment**

Category	Use	Rate	Unit of Measure	Payment Due
	Industrial	\$1.42	Per square foot of gross floor area of building	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or certificate of compliance
	Other	\$1,310.00	Per Peak PM Trip	One half (1/2) due prior to approval to commence construction; One half (1/2) prior to issuance of certificate of occupancy or certificate of compliance

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2018 of the (County)(City)(Town)(Village) of East Greenbush was duly passed by the Town Board on December 19 20 18, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.  
*(Elective Chief Executive Officer\*)*

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_.  
*(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

Kimberly Carlock  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: 12/28/2018

(Seal)