

# **TOWN OF HASTINGS ZONING LAW**

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# **ARTICLE 1. INTRODUCTION**

## **Section 110. Enacting Clause**

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Hastings hereby adopt and enacts the following law.

## **Section 120. Title**

This law shall be known as “The Town of Hastings Zoning Law.”

## **Section 130. Purpose**

The purpose of this zoning law is to provide for orderly growth in accordance with a comprehensive plan; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; and to promote the health, safety, and general welfare of the public.

This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

## **Section 140. Applicability**

This law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

## **Section 150. Replaced and Superseded Laws**

This law shall replace and supersede “The Town of Hastings Zoning Law,” Local Law No. 1 of 1988, as amended.

## ARTICLE 2. DEFINITIONS

**Accessory Apartment:** A second dwelling unit located on the same lot as a principal single-family dwelling, located either within the principal dwelling or within an accessory building, which is subordinate to the principal dwelling in terms of size, location, and appearance. Such a dwelling is an accessory use to the principal dwelling.

**Accessory Building:** A building which is an accessory structure.

**Accessory Structure:** A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

**Accessory Structure, (Telecommunications Facilities):** An accessory facility or structure serving or being used in conjunction with a telecommunications facility or tower and located on the same lot as the telecommunications facility or tower. Examples of such structures include utility or transmission equipment, storage sheds or cabinets.

**Accessory Use:** A use incidental and subordinate to the principal use and located on the same lot with such principal use. Accessory uses are allowed in all Zoning Districts.

**Acre:** A measure of land area containing 43,560 square feet.

**Adult Arcade:** An establishment where, for any form of consideration, one or more still or motion picture projectors, slides projectors, or similar machines, or other image producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

**Adult Bookstore or Video Store:** A business that derives 10% or more of its gross income from the sale, or rental of, or utilizes 10% or more of its retail selling area for books, magazines, periodicals, films, motion pictures, videocassettes, slides, compact discs and/or computer generation or other visual representations which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

**Adult Cabaret:** A nightclub, bar, restaurant, bottle club, juice bar, club or similar commercial establishment, where or not alcoholic beverages are served, which regularly features persons who appear nude or in a state of nudity or semi-nudity or live performances which are characterized by the exposure of "Specified Anatomical Activities" or by "Specified Sexual Activities"; or films, motion pictures, video-cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

**Adult Live Entertainment:** A business where an adult male or female exposes parts of their body identified in “Specified Anatomical Activities”.

**Adult Motel:** A hotel, motel or similar business that offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films motion pictures, videocassettes, slides or other photographic reproductions characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Activities” and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets, or leaflets, radio or television’ or offers a sleeping room for rent for a period of time less than 10 hours’ or allows a tenant or occupant to sub-rent the sleeping room for a period of time less than 10 hours.

**Adult Motion Picture Theater:** An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relation to “Specified Sexual Activities” or “Specified Anatomical Activities” for observations by patrons therein.

**Adult Novelty Store:** A business which derives 25% or more of its gross income from the sale, or rental of, or utilized 25% or more of its retail selling area for any form of consideration, instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sado-machistic use or abuse of themselves or others.

**Adult Use:** Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing, or relation to “Specified Sexual Activities” or “Specified Anatomical Activities”, including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motels, adult motion picture theaters, adult novelty stores, and massage establishments.

“Specified Anatomical Activities”:

- 1) Less than the completely and opaquely covered human genitals, pubic region, pubic hair or buttocks or female breast or breasts below a point immediately above the top of the areola.
- 2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

“Specified Sexual Activities”:

- a) Human genitals in a state of sexual stimulation or arousal.
- b) Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.
- c) Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.



- d) Excretory functions as part of or in connection with any of the activities set forth in A. through C.

**Agriculture:** The use of land for agricultural purposes, including farming, dairy, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities.

**Agricultural Structure:** A structure used for agricultural purposes.

**Alteration:** Any change, rearrangement, extension or increase in area or height to a building or structure, other than repairs; any modification in construction, or in building equipment.

**Alteration of Building:** Any change in supporting member of a building, any addition to a building or removal of a building from one location to another.

**Americans with Disabilities Act (A.D.A.):** The federal statute found at 42 U.S.C. Section 12101, et seq., and the rules and regulations promulgated pursuant thereto as they may be amended from time to time.

**Antenna:** A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, PCS and microwave communications.

**Apartment, Accessory:** See *Accessory Apartment*.

**Basement:** That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, **above** the average established curb level or finish grade of the ground adjoining the building.

**Building:** Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

**Building, Accessory:** See *Accessory Building*.

**Building Height:** See *Height*.

**Campground:** Land on which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes. Campgrounds may be allowed as an accessory use to another use of a property upon special use permit approval.

**Camping Unit:** Any tent, lean-to, cabin or similar structure, houseboat, or recreational camping vehicle (towed or motorized), excluding mobile homes, established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

**Campsite:** Any area of land within a campground intended for the exclusive occupancy of a single camping unit.

**Cellar:** That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, **below** the average established curb level or finish grade of the ground adjoining the building.

**Certificate of Compliance:** A certification by the zoning officer that a lot, structure, or use of land has been developed in conformity with an approved zoning permit and/or complies with the provisions of this law, and may be occupied and used for the purposes specified in such zoning permit and/or certificate of compliance. This certification may be endorsed upon any certificate required to be issued by applicable laws of the municipality or may be on a separate document.

**Code Enforcement Officer:** Any person appointed by the Town Board to enforce the provisions of this law.

**Co-located Antennas:** Telecommunication Facilities which utilize existing Towers, buildings or other structures for placement of Antenna(s) and which do not require construction of a new Tower.

**Coverage:** See *Lot Coverage*.

**Day Care Center, Child:** Any use defined as a "Child Day Care Center" in Section 390 of Social Services Law.

**Day Care Home, Family:** Any use defined as a "Family Day Care Home" in Section 390 of Social Services Law.

**Day Care Home, Group:** Any use defined as a "Group Day Care Home" in Section 390 of Social Services Law.

**Drive-in Use:** A use which provides physical facilities which permit the service of customers while remaining in their motor vehicle.

**Dwelling:** A building or portion thereof which is used exclusively for residential purposes, including one-family, two-family, and multiple-family dwellings [, but not including hotels, motels, boarding houses, and bed and breakfast inns].

**Dwelling, Multiple-family:** A building or a portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

**Dwelling, One-family:** A building containing only one dwelling unit, and occupied by only one family.

**Dwelling, Two-family:** A building containing only two dwelling units, and occupied by only two families.

**Dwelling Unit:** A complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

**Essential Facilities:** The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas substations; water treatment, wastewater, storage and transmission facilities; pumping stations; and similar facilities.

**Excavation:** A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building or structure which has an approved permit.

**Excavation, Class 1:** An excavation which is intended for the extraction of more than 1,000 tons of material from the earth within one calendar year.

**Excavation, Class 2:** An excavation which is not defined as a "Class 1 Excavation."

**Family:** One or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.

**Flood Zone:** Land located within an "area of special flood hazard" (the 100 year flood plain) or within the "flood way" as those terms are defined in the Town of Hastings Flood Damage Prevention Local Law.

**Forestry:** The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or performing forest services.

**Height:** In the case of structures with roofs, the vertical distance measured from curb or grade level to the highest level of a flat or mansard roof, or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads, penthouses and similar constructions enclosing equipment or stairs, providing they are less than 12 feet in height and do not occupy more than 30% of the area of the roof upon which they are located. In the case of structures not containing a roof, the vertical distance between the lowest exposed portion of the structure situated above grade and the highest elevation of the structure.

**Home Business:** Any use customarily conducted entirely within a dwelling provided that such use is carried on solely by the residents of the dwelling, is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character of the dwelling and that there is no external evidence of such use except as provided in Section 640 of this law.

**Impervious Surface:** Impermeable surfaces, such as pavement, rooftops and walks that prevent the infiltration of water into the ground.

**License:** Written permission to operate a business for a specified period of time, granted upon special use approval by the Town Board, which is renewable upon certification that such business has been operated in compliance with this law.

**Lot:** A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

**Lot Area:** The total horizontal area included within the lot lines of a lot. No part of the area within a public right-of-way shall be included in the computation of lot area.

**Lot Coverage:** That portion of the lot that is covered by buildings.

**Lot, Corner:** A parcel of land at the junction of, and fronting on, two or more intersecting streets or highways. A corner lot shall have two front yards (along streets) and two side yards.

**Lot Depth:** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

**Lot, Flag:** A lot that meets the requirements of Section 425 of this law.

**Lot Frontage:** The length of the front lot line measured at the road line.

**Lot Line:** A line of record bounding a lot which divides one lot from another lot or from a public or private road.

**Lot Line, Rear:** The lot line generally opposite the lot frontage.

**Lot Width:** The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district.

**Manufacturing:** Any land or structures used for the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

**Marina:** A commercial facility for the storing, servicing, fueling, berthing and/or securing of pleasure boats, and upland support services.

**Metes-and-Bounds:** A method of describing the boundaries of land by directions and distances from a known point of reference.

**Mobile Home:** A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A *mobile home* shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. This term shall not include factory manufactured homes known as “modular homes” bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212.

**Mobile Home, Single-Wide:** A mobile home which is manufactured as a single section and is designed to be complete dwelling when transported to the placement site.

**Mobile Home, Double-Wide:** A mobile home which is manufactured in two or more sections off-site which are designed to be transported individually to the placement site and assembled there to form a complete dwelling.

**Mobile Home Park:** Any lot on which two or more mobile homes are located for more than thirty (30) days, regardless of whether or not any change is made for such accommodation.

**Mobile Home Site:** An area of land in a mobile home park intended for the exclusive occupancy of a single mobile home.

**Nonconformity:** A lot, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

**Nonresidential Use:** A use which does not contain a dwelling unit.

**Office:** A building, or part thereof used for conducting the affairs of a business, profession, service, industry, or government; and may include accessory services for office workers; and not including the on-premise manufacturing, servicing, storage or distribution of goods or merchandise.

**Overlay Zone:** A zone that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

**Park/Playground, Public:** A tract of land, designated and used by the public for active and passive recreation.

**Plat:** A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

**Planning Board:** The Town of Hastings Planning Board.

**Principal Structure:** A structure through which the principal use of the lot on which it is located is conducted.

**Principal Use:** The primary or predominant use of any lot.

**Public and Semi-Public Facility:** Any one or more of the following uses, including grounds and accessory buildings necessary for their use: religious institutions; public parks, playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings; and public meeting halls and community centers.

**Public Safety Building:** A facility for housing public fire fighting, rescue or police equipment and administrative offices.

**Recreational Camping Vehicle:** Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and overnight trailers.

**Religious Institution:** A church, synagogue or other place of religious worship, which is tax-exempt and incorporated.

**Residential Use:** A use containing a dwelling unit.

**Retail Sales and Service:** Commercial retail sales and service including, but not limited to, sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors for retail sales; business or institutions providing overnight accommodations; and storage and parking facilities.

**Retail Sales and Service, Indoor:** A commercial facility engaged in selling goods or merchandise to the general public for personal or household consumption; or providing retail services or entertainment to the general public such as eating and drinking establishments, finance, real estate and insurance, personal services, amusement and recreational services, hotels/motels, health, educational and social services; and not including sales and service for new and used automobiles, trucks, mobile homes, boats, recreational vehicles, farm implements, tree nurseries and other large items stored outdoors for retail sales.

**Road:** A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

**Road Line:** The right-of-way line of a road as dedicated by a deed of record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the center line of the road pavement.

**School:** Any school licensed by the State and which meets the State requirements for elementary or secondary education.

**Setback:** The distance between a lot line, road line or the mean high water line of a body of water and a particular development feature of a lot such as a building, structure, or parking area.

**Site Plan Approval:** An approval for site plan uses by the town Planning Board, granting permission to the zoning officer to issue a zoning permit.

**Special Use Approval:** An approval for special uses by the Town Board, granting permission to the zoning officer to issue a zoning permit.

**Special Use:** A use of land which requires a review and approval of the Town Board prior to the issuance of a special use approval or zoning permit by the zoning officer.

**Structure:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground.

**Telecommunication Facilities:** Towers and/or Antennas and Accessory Structures, (Telecommunication Facilities) used in connection with the provisions of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.

**Temporary Sale Signs:** Signs displayed for no more than 2 weeks.

**Tower:** A structure designed to support Antennas. It includes, without limit, free-standing towers, towers, guyed towers; monopoles and similar structures which employ camouflage technology.

**Use:** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

**Variance:** Any departure from the strict letter of this law granted by the zoning board of appeals as it apply to a particular piece of property.

**Wholesale/warehousing:** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies; and terminal facilities for handling freight with or without maintenance facilities, and buildings used primarily for the storage of goods and materials.

**Yard:** Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in this law. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

**Yard, Front:** The space within and extending the full width of the lot from the road line to that part of the building or structure which is nearest to such road line. If a lot adjoins two or more roads, it shall be deemed to have a front yard respectively on each.

**Yard, Rear:** The space within and extending the full width of the lot from the rear lot line to that part of the building or structure which is nearest to such rear lot line.

**Yard, Side:** The space within and extending the full distance from the front yard to the rear yard and from the side lot line to that part of the building or structure which is nearest to such side lot line.

**Zoning Board of Appeals:** The body appointed by the Town Board in accordance with Town Law section 267-a to hear appeals from determinations of the Code Enforcement Officer regarding the application of this law.

**Zoning Permit:** A permit issued by the Code Enforcement Officer certifying that all plans for the use and development of land comply with the regulations of this law, and granting permission to commence development activities in conformity with the conditions of the approved permit. This permit may be endorsed upon any permit required to be issued by applicable law of the municipality or may be on a separate document.



# ARTICLE 3. ESTABLISHMENT OF ZONES

## Section 310. Types of Zones

For the purpose of this law, the Town of Hastings is hereby divided into the following zones:

H	Hamlet
W	Waterfront
R-1	Agricultural-Residential
R-2	High Density-Residential
CR	Commercial-Residential
C	Commercial
CI	Commercial-Industrial
PD	Planned Development
MH	Mobile Home Overlay Zone

## Section 315. Description of Zones

Policies for each zoning district have been put forward in the “Town of Hastings Land Use Master Plan”, adopted September 17, 1996 by the Town Board.

## Section 320. Zoning Map

The zones are shown, defined and bounded on the zoning map accompanying this law entitled “Zoning Map,” dated 10/13/15. The zoning map is hereby made a part of this law, and shall be on file in the office of the Town Clerk.

## Section 330. Interpretation of Zone Boundaries

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

1. Where the designation on the zoning map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary.
2. Where the designation on the zoning map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
3. Distances shown on the zoning map are perpendicular distances from road centerlines measured to the zone boundary. In all cases where distances are given, zone boundaries are parallel to the road centerline.

4. In other cases the zone boundary shall be determined by the use of the scale on the zoning map by the Code Enforcement Officer.

### **Section 340. Metes-and-Bounds Descriptions**

In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this law, such metes-and-bounds description may be used in lieu of other provisions of this article.

### **Section 350. Divided Lots**

Where a district boundary divides a lot of record at the time such boundary is adopted, the requirement of the less restrictive portion of such lot shall extend 20 feet into the more restrictive portion of the lot and may be further extended into the more restrictive portion of the lot upon issuance of a special permit by the Town Board in accordance with the procedures set forth in Article 13 of this Law.

## **ARTICLE 4. ZONE REGULATIONS**

### **Section 410. Allowed Uses**

All uses shall comply with the requirements as indicated on the following chart:

ZP = zoning permit required                      SP = site plan approval required  
 UP = special use permit required                NP = use not permitted in this zone

<b>USE</b>	<b>H</b>	<b>W</b>	<b>R-1</b>	<b>R-2</b>	<b>CR</b>	<b>C</b>	<b>CI</b>
accessory apartment	SP	SP	ZP	SP	SP	SP	NP
adult use	NP	NP	NP	NP	NP	NP	UP3
agricultural use	ZP <sup>1</sup>	ZP <sup>1</sup>	ZP <sup>1</sup>	ZP <sup>1</sup>	ZP	ZP	ZP
campground	NP	UP	UP	NP	NP	NP	NP
essential facilities	SP	SP	SP	SP	SP	SP	SP
excavation use	NP	NP	SP	NP	UP	NP	NP
home business	ZP	ZP	ZP	ZP	SP	SP	NP

1. Special use approval required if within fifty feet of a residential use.

<b>USE</b>	<b>H</b>	<b>W</b>	<b>R-1</b>	<b>R-2</b>	<b>CR</b>	<b>C</b>	<b>CI</b>
manufacturing	NP	NP	NP	NP	NP	NP	SP
marina	UP	SP	NP	NP	NP	NP	NP
mobile home park	NP	NP	NP	NP	UP	NP	NP
office	UP	UP	NP	NP	UP	SP	SP
public/semi-public use	SP	SP	SP	NP	UP	SP	SP
residential, multiple-family	SP	SP	SP	NP	UP	NP	NP
residential, single-family <sup>2</sup>	ZP	ZP	ZP	ZP	ZP	NP	NP
residential, two-family	ZP	ZP	ZP	ZP	ZP	NP	NP
retail sales and service	UP	UP	NP	NP	UP	SP	SP
retail sales and service, indoor	UP	UP	NP	NP	UP	SP	SP
wholesale/warehousing	NP	NP	NP	NP	UP	SP	SP

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2. Includes double wide mobile homes and modular homes.
  3. See Adult Use Restrictions, Section 412

## **Section 412. Adult Uses**

### **Background:**

It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Hastings, this section is intended to restrict adult uses to industrially zoned areas of the Town. The Town Board has found that the operational characteristics of adult uses and the secondary effects of adult uses increase the detrimental impact on a community when such uses are spread throughout the community. Therefore, this section is intended to promote the health, safety and general welfare of the residents of the Town of Hastings by regulation the concentration and location of such adult uses. This section has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by the distributors and exhibitors of adult entertainment and/or sexually orientated entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

### **Adult Use Restrictions:**

No adult use shall be allowed or permitted in any zoning district of the Town, except the CI – Commercial/Industrial Zone. All adult uses shall comply with the applicable provisions of the Zoning Ordinance including those relating to structures and uses permitted in the CI – Commercial/Industrial Zone.

In addition, no person shall construct, establish, operate, or maintain, or be issued a certificate of occupancy for, any adult use within the Town unless such use meets the following standards:

- 1) No more than one adult use shall be allowed or permitted on any one lot.
- 2) No adult use shall be allowed on a lot that is closer than 1000 feet from: (a) a structure in which there is another adult use; (b) any residential or business zone; (c) any structure that is utilized, in whole or in part, for residential purposes; (d) any church or other regular place of worship, community center, funeral home, library, school, nursery school, daycare center, hospital or public park, playground, recreational area or field; (e) any public buildings; and (f) any hotels or motels.
- 3) Where there is a conflict between these regulations and any other law, rule or regulation of the Town including the Zoning Ordinance, the most restrictive law, rule or regulation shall apply.
- 4) All distances set forth herein shall be measured from lot line to lot line.

## Observation from Public Way:

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relation to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening.

## Section 415. Camping Units

It shall be unlawful to locate, establish, or maintain **for occupancy for more than 30 days**, a camping unit, except when located within a legal Campground as defined in this law.

## Section 420. Lot and Yard Areas and Dimensions

All lots, structures and uses shall conform to the following standards for the zone in which it is located:

Without public water and sewer

	H	W	R-1	R-2	CR	C	CI
lot area min. (Acre.)	1/3	1/3	1	1/2	3/4	1/2	1
lot coverage max. (%)	30	25	20	30	20	40	40
lot frontage min. (ft.)	100	100	150	100	150	150	150
front yard min. (ft.)	25	25	50	25	75	75	75
side yard min. each side (ft.) (1)	15	15	15	15	15	15	15
rear yard min. (ft.) (1)	25	25	25	25	25	25	25

With public water or sewer or both

	H	W	R-1	R-2	CR	C	CI
lot area min. (Acre.)	1/3	1/3	1/3	1/4	1/2	1/2	1
lot coverage max. (%)	30	25	20	30	20	40	40
lot frontage min. (ft.)	100	100	120	80	120	100	100
front yard min. (ft.)	25	25	40	25	50	75	75
side yard min. each side (ft.) (1)	15	15	15	15	15	15	15
rear yard min. (ft.) (1)	25	25	25	25	25	25	25

## **Section 425. Flag Lots**

Flag lots are intended by this law to be lots created by subdivision, which do not meet the road frontage requirements of Section 420 and which are generally separated from the public right-of-way by a lot or lots having adequate frontage, but meet the following standards:

1. Location- Flag lots shall only be permitted in R-1, R-2, Hamlet, and Waterfront Districts;<sup>1</sup>
2. Size- Flag lots shall containing at least 1.5 times the minimum requested lot area (including the narrow strip providing road frontage for the flag lot);<sup>2</sup>
3. Dimensions- Flag lots must have a minimum lot frontage of 20 feet on a public right-of-way. The minimum set backs of front yards, rear yards and side yards shall be 25 feet, but in no case shall any structure be located closer than 100 feet from the road line;
4. Number of Flag Lots- There shall be not more than one flag lot created from a single lot existing as of the effective date of this law;
5. Original Parcel- All other lot(s) of the subdivision shall meet all requirements of this law.

## **Section 430. Single Wide Mobile Home Overlay Zone**

Single-wide mobile homes outside of mobile home parks shall be located only in areas designated on the zoning map as the "Mobile Home Overlay Zone."

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<sup>1</sup> Amended August 12, 1997

<sup>2</sup> Amended February 9, 1999

# **ARTICLE 5. PLANNED DEVELOPMENT ZONE**

## **Section 510. General**

A.Planned Development (PD) zone may be created and placed on the zoning map at such times as the Town Board may deem necessary and appropriate. The PD zone is intended to be used for special types of development projects under the following circumstances: 1)the parcel(s) for which the PD zone designation is sought consists of at least 20 acres of land, 2) where diverse land uses may be brought together as a compatible and unified plan for development which would not otherwise be permitted through the other types of zones provided for in this law, and 3) where flexibility in design is desirable by allowing yard sizes, building coverage, and other requirements which would not otherwise be permitted through the other types of zones provided for in this law.

## **Section 520. Procedure**

PD zones shall be created and developed through the following procedure:

1. An applicant for a PD zone shall submit a development plan to the Town Board in compliance with the requirements of Section 530 below. The submission of a development plan to the Town Board shall in no way bind the Town Board to holding a public hearing upon, or acting upon a PD rezoning proposal.
2. If the Town Board decides to proceed with consideration of a development plan, the Town Board shall request the recommendation of the Planning Board on the suitability of the development plan and the advisability of PD zone designation. The Town Board shall also hold a public hearing on the plan before making any final determination. In making its determination, the Town Board shall be guided by the considerations as outlined in Section 540 below. The Town Board may specify by law the specific conditions or general guidelines which shall apply to the future development of the zone, as outlined in Section 550 below, upon approval of a PD zone designation.
3. The Town Board shall approve, approve with modifications, or disapprove site plans in PD zones as provided for in Article 11 of this law. All site plans approved by the Town Board shall be in accordance with the PD zone conditions or guidelines previously approved by the Town Board.

## **Section 530. Development Plan Requirements**

The development plan shall be prepared by an architect, engineer, land surveyor, licensed in accordance with New York State Education Law, and shall include the following information presented in drawn form and accompanied by a written text:

1. map of the property, drawn to scale, showing existing features of the site including land contours, existing buildings and other structures, major vegetation, roads, easements, rights-of-way and land use;
2. site plan, drawn to scale, and in accordance with Article 11 of this law, showing proposed development and land uses;
3. traffic circulation, parking and loading spaces and pedestrian walks;
4. landscaping plans, grading plans and drainage plans;
5. facilities for water supply and sanitary service or septic system; and
6. any other information deemed necessary by the Town Board.

### **Section 540. Rezoning Considerations**

In determining the suitability of PD zone designation, the Town Board shall be guided by the following considerations:

1. the uses proposed will not be detrimental to present and potential surrounding uses;
2. land surrounding the proposed development is compatible in use, and can be planned in coordination with the proposed development;
3. the proposed change is in conformance with the general intent of the Town's Land Use Master Plan;
4. existing and proposed streets are suitable and adequate to carry anticipated traffic within and around the proposed development;
5. existing and proposed public facilities and services are adequate for the proposed development;
6. each phase of the proposed development, as it is proposed to be completed, contains the required parking, landscaping, and public facilities and services necessary for creating and sustaining a desirable and stable environment; and
7. the size of the parcel to be included in the PD.



## **Section 550. Development Conditions or Guidelines**

Conditions or guidelines which may be placed on a PD zone by the Town Board may include, but shall not be limited to:

1. the use or combination of uses allowed in the zone;
2. any special requirements relating to yard sizes, building or surface coverage, the height or bulk of buildings, or the intensity of development;
3. the landscaping, screening, and buffering of the uses in the zone;
4. parking, loading, access and circulation requirements for motor vehicles and emergency vehicles;
5. pedestrian circulation;
6. the architectural design of buildings or structures;
7. the design and placement of accessory structures;
8. specific site plans for either a portion of, or the entire zone;
9. the provision for public parks, recreation areas, and areas designated to remain forever wild;  
and
10. the control of surface runoff, and development adjacent to flood plains and wetlands.

## **ARTICLE 6. GENERAL REGULATIONS**

### **Section 605. Principal Residential Uses Per Lot**

There shall be no more than one principal residential building on a single lot.

### **Section 610. Line-of-Sight for Traffic Safety**

No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or exiting highways.

### **Section 615. Height of Structure**

Structures exceeding 40 feet in height, excluding agricultural structures, shall be allowed only upon special use permit in accordance with Article 13 of this law. Such approval shall not be granted until the applicant has demonstrated the following:

- a. that there is a demonstrated public need for the proposed use, and that this need cannot be met by any means other than by exceeding the general height limitations of this law;
- b. that the height of the structure is the minimum necessary to accomplish its intended purpose;
- c. that all practical means have been used to minimize any negative aesthetic and environmental impacts; and
- d. that the structure does not significantly impair solar access to buildings or solar energy systems equipment.

### **Section 625. Accessory Apartments**

1. No more than one accessory apartment shall be allowed for each single-family dwelling unit.
2. Each accessory apartment shall be a maximum of 600 square feet, including basements, but excluding cellars.<sup>1</sup>

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<sup>1</sup> Amended May 12, 1998

## **Section 630. Accessory Uses and Structures**

Accessory uses and structures shall comply with all requirements for principal uses and structures as set forth in this law, regardless of whether or not they require a permit pursuant to this law.

## **Section 640. Home Businesses**

Home businesses shall comply with the following:

1. All business activities shall be carried on wholly within the principal building.
2. There shall be no exterior display, nor any more than one exterior sign of not more than sixteen square feet, no exterior unscreened storage of materials or waste products, and no other exterior indication of variation from the residential character of the principal building.
3. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
4. No more than two customer vehicles shall be at the premises at a single time.

## **Section 645. Development in Floodplains**

All uses and structures shall comply with Local Law #1 of 2013 for Flood Hazards Zones, as amended from time to time.

## **Townhouse Zoning Regulations**

**Section 650 Intent:** It is the purpose and intent of this Section to provide for the design and development of innovative housing forms which incorporate a higher density living situation, and at the same time preserve the desirability of an individually owned housing unit. This is accomplished by efficiently utilizing buildable space within a given area by allowing reduced lot size as well as lot width and compensating for the reduction by incorporating open and shared spaces, scenic and

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recreational areas and other amenities. The following standards have been developed by the Town, which will apply to attached housing stock known commonly as townhouses.

**SECTION 654 DEFINITIONS.** THESE DEFINITIONS SHALL BE IN ADDITION TO THE DEFINITIONS SET FORTH IN Article 2 of this Zoning Law and shall apply solely to townhouse developments.

- 1) Townhouse – As used in this Section, a townhouse is defined as an attached, privately owned single family dwelling unit which is part of and adjacent to other similarly owned single family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility.
- 2) Townhouse Group – A cluster or grouping of townhouse units containing no less than two or more than six townhouse dwelling units contiguous to one another.
- 3) Townhouse Lot – A townhouse lot is defined as a properly recorded and deeded lot upon which a townhouse unit is found.
- 4) Townhouse Project – A development consisting of the original lot, on which townhouses, access drives, parking areas and common/open spaces are platted.

### **Section 655 Development Criteria:**

- 1) Density – Overall density in a particular townhouse project shall not exceed the maximum density allowed within the zoning district for which it is located, except when designed and developed as a Planned Unit Development under the provisions set forth in Article 5.
- 2) Lot Area – No townhouse lot shall contain an area of less than 1,500 square feet (sf) and a minimum lot and building width of 25 feet. The remaining lot area that would normally be required in the zoning district, per dwelling unit, shall be incorporated into usable and accessible open space and or private or common vehicular access or parking are for the townhouse project site. The minimum lot width shall front onto a common access drive owned and maintained by the designated homeowners association.
- 3) Location – Townhouse developments may be located in the Waterfront (W) and Hamlet (H) zoning districts, where public water and sanitary sewer service is currently available/used, or available/used by extension at the cost of the developer.
- 4) Project Site – As used in this chapter, a townhouse project site is the entire parcel of land for which townhouse units are proposed prior to the creation of any townhouse lets (as required by the Town Subdivision Regulations).

- 5) Unit Size – Every townhouse dwelling unit shall have a minimum gross floor area equal to that in the specific zoning district in which the townhouse project is located, or that required by the Building Code, whichever is greater.
- 6) Height of Structure – Maximum height for any townhouse structure shall no be greater than that prescribed by the zoning district in which the townhouse development is located.
- 7) Dwelling Unit Access – Each townhouse unit shall have a minimum of tow (2) separate entrees from the ground on which the structure is erected.
- 8) Size of Project Site – the minimum size of the site to be developed, as a group of townhouse units shall be 25,000 sf.
- 9) Building Coverage – In no event shall the structures within a townhouse project, including any accessory buildings, cover more than that prescribed by the zoning district in which the townhouse development is located.
- 10) Townhouse Project Street frontage – Each townhouse project site shall border on a public street, and shall have a minimum road frontage equal to that required for a typical residential lot within the zone that the project is located.

### **Section 657 – Setbacks and Yards**

1. Right-of-way Setback – No townhouse unit shall be located closer than 25 feet from any public right-of-way line, or within 25 feet of a private drive, access road, or common open parking area.
2. Yard Setback Requirements – Each individual townhouse lot shall have a minimum front yard of 25 ft. and a rear yard of 25 ft. The minimum side yard requirements shall be 20 ft. from any adjoining property line of the townhouse project site.
3. Setback Variation – No more than two abutting townhouse or townhouse groups within the townhouse project site shall have a common front building setback. Variations in the setback of front building faces shall be at least two (2) feet. Height variations shall also be incorporated, if feasible, in the townhouse building design.
4. Distance between Townhouse Units – Townhouse units, as defined in this Section, shall be separated by at least 20 ft.

### **Section 663 – Maintenance**

1. Open Space Maintenance – all common open space areas and facilities including, but not limited to recreational facilities, off street parking areas, and common open space shall be

maintained in a satisfactory manner, without expense to the general taxpayers of the Town. In order to ensure the maintenance of and the payment of and the payment taxes on the commonly held non-public property, a mandatory Homeowners Association, in a format satisfactory to the Town, shall be formed and recorded in the public records of Oswego County and or the State of New York

2. Access Drive Maintenance – Interior access drives shall be maintained by the homeowners association.
3. Winter Maintenance – the homeowners association shall have the responsibility of all winter maintenance (ie. Snow removal) within the townhouse site.

### **Section 665 – Accessory Buildings -**

1. No accessory buildings shall be erected in any required front, side or rear setback, nor within 20 ft. or any principle building.

### **Section 667 – Utilities and Services**

1. Each individual townhouse unit shall be connected to and services by public water and sanitary sewer service that have been approved by the NYS Department of Health. The water and sewer services shall be independent of any other townhouse unit or building.
2. Water service shall have a curb stop and valve for each townhouse unit. Sewer lines shall have strategically placed cleanouts as required by the Town Engineer.
3. Necessary easements shall be recorded on the townhouse plat and shall be of a width satisfactory to the Town Engineer.
4. All utility services shall be designed for subdivisions that are platted for townhouse development at the time of plat submittal. The Town Engineer shall review said utility plans for conformance to Town requirements.
5. Utility services shall be design such that unnecessary disturbance to paved streets shall be avoided. Any disturbance to existing paved streets as a result of utility installation for the townhouse development shall be made to the satisfaction of the Town, at cost of the developer.
6. Costs for extensions of public utilities to serve the townhouse site, including, but not limited to, district formation, engineering design, environmental permitting, construction and construction inspection shall be borne by the developer of the townhouse project.

## **Section 670 – Supplementary Regulations**

1. Conversion – the conversion of existing structures to a townhouse project shall not be permitted.
2. Building Permit – a legal subdivision plat shall be placed on the public records of Oswego County, and a Homeowners Association shall be formed in conformance with NYS Law prior to the issuance of a building permit within a townhouse development.
3. Landscaping – not less than 75% of each yard shall be landscaped. Plans for such landscaping shall be submitted with the subdivision plat. Installation of landscaping shall be in conformance with a time schedule mutually established by the developer and Town Code Enforcement Officer.
4. Building Standards – all townhouse developments shall be designed and constructed in conformance with the Building Code in place at the time of the development, and any federal or state programs that are applicable.

## **Section 673 – Application and Submittal Requirements**

1. All townhouse applications shall follow the Site Plan Review process in the Town Zoning Law, including all applications, submittals, and design requirements.
2. Townhouse developments of four (4) or fewer lots shall be considered a Minor Subdivision under the subdivision regulations of the Town.
3. The Planning Board, as the primary reviewing and approving board, shall make one approval for the project, that both approves the Subdivision of Land, and the Site Plan approval for the townhouse development project.
4. All Townhouse applications shall be accompanied by a Long Form Environmental Assessment Form (EAF) for review under the State Environmental Quality Review Act.
5. Review fees for townhouse projects shall be paid at the time of application to the Town, and shall be in an amount set forth by the Town Board for Site Plan approvals.

# **ARTICLE 7. MOBILE HOME PARKS AND CAMPGROUNDS**

## **Section 705. Mobile Home Park Special Use Permit**

1. No person shall operate a mobile home park unless a special use permit to operate has first been issued pursuant to this law. No mobile home park in existence on the effective date of this law shall be expanded or altered. Unless a special use permit allowing such expansion or alteration has been issued pursuant to this law.
2. All special use permits shall be issued for a period of one year, after which time renewal shall be required. All special use permits shall expire on March 31st, annually. The special use permit shall be displayed conspicuously at all times at the site of mobile home park.
3. Prior to special use permit renewal, all parks shall be inspected by the Code Enforcement Officer. Such special use permit shall not be renewed until certified by the Code Enforcement Officer as operating in compliance with this law.
4. The Code Enforcement Officer shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to special use permit issuance or renewal.

## **Section 710. License Revocation or Failure to Renew**

1. The Town Board may revoke such special use permit upon reasonable cause should the applicant fail to comply with any provision of this law. Before the special use permit may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in a newspaper in general circulation in the town at least five days prior to the date thereof. The special use permit holder shall be notified of the hearing by certified mail at least ten days prior to the hearing. At the hearing the Town Board shall hear the special use permit holder and all other persons wishing to be heard on the revocation of the special use permit. Should the Town Board decide to revoke a special use permit, the reasons for such revocation shall be stated in the Town Board minutes and shall be stated in the form of a written decision, then filed in the office of the Town Clerk. The special use permit holder shall be immediately notified of the revocation by certified mail.
2. Should any mobile home park special use permit be revoked or fail to be renewed, the operator shall cease and desist from operating a mobile home park and cause the removal of all mobile homes and appurtenant structures from the premises within 90 days of the revocation.



## **Section 715. Mobile Home Park Location, Conditions and Size**

1. Mobile home parks and expansions shall be located where orderly development can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-road parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping, storm drainage and buffering.
2. Mobile home parks and expansions shall have generally level to gently rolling topography over an area of sufficient size to allow development in accordance with this law without significant alteration or disturbance of existing natural features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcroppings.
3. Mobile home parks and expansions shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.
4. Mobile home parks and expansions shall be separated from campgrounds by a minimum distance of 250 feet.

## **Section 720. Mobile Home Sites**

1. Mobile home parks and expansions shall be divided (exclusive of internal roads, open space or common areas) and marked off into sites numbered consecutively, the number being conspicuously posted on each site with such number to correspond to the site shown on the site plan submitted.
2. Sites shall be a minimum of 10,000 square feet.
3. Sites shall have a minimum width of 75 feet.
4. Sites shall have a minimum depth of 130 feet.
5. All mobile homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures shall satisfy the following setback requirements:
  - a. Minimum of 150 feet from the road line of any public road;
  - b. Minimum of 30 feet from the centerline of any internal road;

- c. Minimum of 40 feet between adjacent mobile homes and any other structures in the mobile home park;
  - d. Minimum of 20 feet from rear site lines; and
  - e. Minimum of 5 feet from side site lines.
6. No internal road, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within 50 feet of a property line in common with adjoining property external to the mobile home park and abutting a public road.
  7. Site sizes in subsection 2 above may be reduced to 7,500 square feet, minimum, in special cases, where compensating open space or recreational space is provided equal to the reductions allowed. In such cases, the site width minimum in subsection 3 above may be reduced to 60 feet and site depth minimum in subsection 3 above may be reduced to 125 feet.
  8. There shall be no more than one mobile home per site.

### **Section 725. Mobile Home Park Entrances**

- 1) Entrances shall be located directly opposite or at least 200 feet from the nearest intersection of public roads, if any, and at least 150 feet from any other entrances to the park.
- 2) Entrances shall have sufficient width and turning radii to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles.
- 3) Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road.
- 4) Entrances from County and State highways must be approved by the County or State Department of Transportation, respectively.

### **Section 730. Mobile Home Park Access Roads**

- 1) The term "access road" as used herein means that portion of the privately owned road serving a mobile home park which is located within 150 feet of a public road. All other portions of the privately owned road located within a mobile home park are "internal roads".
- 2) Internal roads and access roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.

- 3) Access roads connecting public roads with internal roads shall be required in any mobile home park with 3 or more mobile home sites, and at least 2 independent points of access on to a public road shall be required to serve any park having 20 or more mobile home sites.
- 4) Access roads shall intersect public roads at right angles and at compatible grades.
- 5) All internal roads and access roads shall be designed, graded, leveled, and surfaced so as to permit the safe passage of emergency and other vehicles at a speed of 15 miles per hour.
- 6) All sites shall face on and be serviced by internal roads.
- 7) Cul-de-sacs with a minimum turning radius of 90 feet shall be provided in lieu of closed end roads.
- 8) All internal roads and access roads shall have a minimum 30 foot right-of-way, 20 feet of which shall be surfaced in a manner to be determined by the Town Board.

#### **Section 740. Mobile Home Park Design Standards**

- 1) Easily accessible and usable open spaces shall be provided in all parks. Such open space shall have a total area equal to at least 15% of the gross land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes.
- 2) A hard surfaced pedestrian walkway of at least 4 feet in width shall be provided along and at least 5 feet from each access road between the entrance to the public highway and either the first unit or such location within the park as may be required to assure pedestrian safety.
- 3) Water supply and sewage disposal systems shall be designed and constructed in compliance with all County and New York State Health Department and Environmental Conservation Department requirements.
- 4) Storage facilities shall be provided which shall provide 125 cubic feet of secure storage space for each mobile home. Such facilities may either be located on each site or be a permanent structure within the park which is easily accessible to the park residents at all times.
- 5) Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

- 6) Access and internal roads, driveways, walkways, storage areas, and service buildings shall be adequately lighted to allow for the safe movement of vehicles and pedestrians at night. A minimum lighting level of 0.3 foot candles shall be provided.
- 7) Storm drainage improvements shall safely and adequately drain the internal roads, access road and sites.

### **Section 745. Mobile Home Park Operations**

- 1) The operator shall maintain an office in the immediate vicinity of the mobile home park.
- 2) The operator shall operate the mobile home park in compliance with the standards set forth in this law and shall provide adequate supervision to maintain the mobile home park, its common grounds, roads, facilities and equipment in good repair and in a neat and sanitary condition.
- 3) A list of operator and occupant responsibilities shall be posted in the mobile home park office or made available upon request.
- 4) All receptacles, including cans and dumpsters, shall be kept in a sanitary condition at all times. It shall be the responsibility of the operator to ensure that garbage and rubbish shall be collected and properly disposed of outside of the park. All areas of the park shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
- 5) The operator shall place or supervise and be responsible for the placement of each mobile home on its mobile home pad, which responsibility includes ensuring its stability by securing all tie downs and installing all utility connections.
- 6) Occupants shall be responsible for the maintenance of personal mobile homes and any appurtenances thereto, and shall keep all personal yard space in a neat and sanitary condition.
- 7) Recreational camping vehicles shall not be used for residential purposes, whether permanently or temporarily, in any mobile home park. Travel trailers shall not be parked in any mobile home park.
- 8) The operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the mobile home park.
- 9) No open fires shall be permitted any place within the mobile home park with the exception of outdoor grills used for the preparation of foods.

## **Section 750. Campground Design**

- 1) Each campground shall have adequate access to a public road, and each campsite shall be serviced from interior roadways.
- 2) All buildings and campsites shall have a front yard setback of 150 feet from the road line. All front yards shall be seeded and adequately landscaped to provide screening from the road.
- 3) Campsites designated for overnight use only shall be 2,000 square feet minimum. All other campsites shall be 4,000 square feet minimum.
- 4) A minimum of 10% of the total area of the campground, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the campground owner.
- 5) Campsites shall be located on generally level terrain, not to exceed 8% slope, that is well drained, free of flood hazard and clear of dense brush.
- 6) The corners of each campsite shall be clearly and permanently marked, and each site numbered for identification.
- 7) Where the campground terrain is adequate, "pull-through" sites shall be provided.
- 8) Sanitary sewage disposal, water supply and all other improvements shall meet the requirements of Chapter 1, Part 7 of the New York State Sanitary Code, as amended, and all other state, county and town requirements.
- 9) Campgrounds shall be provided with a building containing at least one automatic washing machine, and unless admission to the campground is restricted to recreation camping vehicles with these facilities, one toilet, lavatory and shower for each sex, for each 20 campsites.
- 10) At least one public telephone shall be provided in each campground.

## **Section 755. Campground Operations**

- 1) The owner or manager of a campground shall maintain an office in the immediate vicinity of the campground and shall maintain accurate records of the names of campground residents; home address; and make, description, year and license or identification number of the recreation camping vehicle. These records shall be available to any law enforcement official.
  
- 2) Mobile homes shall not be parked, whether permanently or temporarily, in any campground.

## **ARTICLE 8 (Intentionally left blank)**

## **ARTICLE 9. PARKING AND LOADING**

### **Section 910. General Parking and Loading Requirement**

All uses shall be provided with off-road parking. Commercial and industrial uses shall also provide off-street loading facilities.

### **Section 920. Non-conforming Parking and Loading Situations**

All uses with non-conforming parking or loading situations shall comply with the requirements of this Article if one or more of the following conditions occurs:

1. The use changes.
2. The use expands its gross floor area by 20% or more.
3. The use is destroyed and seeks to be reestablished.
4. The use is discontinued for a period of 6 months or longer and seeks to be reestablished.

### **Section 930. Specific Parking Requirements**

The total number of parking spaces required shall be the sum of those required for the use plus employee and handicap, as required by the New York State Fire Prevention and Building Code. Parking requirements for specific uses are as follows:

<b>Number of Parking Spaces</b>	<b>Per</b>
<b>2</b>	Dwelling unit
<b>1</b>	3 seats in place of assembly
<b>1</b>	Employee at place of employment
<b>1</b>	100 square feet of home occupation floor area
<b>3</b>	Motel and transient facilities

<b>1</b>	Guest room in motels and transient facilities
<b>1</b>	200 square feet of retail, office and service uses
<b>1</b>	Vehicle or employee in wholesale uses
<b>1</b>	1500 square feet of floor area for wholesale uses

For uses that do not fit the chart above, the number of spaces shall be determined by the Approving Board. The Approving Board may consult with the Town Engineer to determine the required parking number through use of the ITE Parking Generation Manual.

### **Section 940. Parking Area Requirements**

1. A parking space shall be not less than 10 feet by 20 feet exclusive of access ways and drive-ways. Parking spaces for the handicapped shall be 10 feet by 20 ft., with a 5 ft. wide access aisle to one side, and shall be demarked by appropriate signage and pavement markings (if paved lot) A required parking driveway shall be not less than 24 feet clear in width for two way traffic, except for one-family and two-family residential uses. Parking arrangements using one way traffic may be considered by the Approving Board, after review and recommendation by the Town Engineer.
2. Off-road parking may be located off-site but must be within 500 feet of the site. Proof of a legal right to use the off-site location must be submitted.
3. No nonresidential or multiple-family dwelling parking area shall be located within 10 feet of a side or rear lot line, or within 5 feet of an improved road surface.
4. To the greatest extent possible, all parking areas for nonresidential and multiple-family dwelling uses shall be located behind the facility and out of roadside view. Where parking areas must be located in side or in front yards adjacent to public roads, and where parking must be located adjacent to residential areas, appropriate buffering, landscaping or visual barriers shall be provided.
5. Landscaping shall be provided around parking areas which shall be designed to break up the visual impact of such areas. Plantings shall be designed to provide adequate site distances to vehicles entering and exiting the site. When large areas are to be paved, parking rows shall be designed with the landscaping inter-spaced within the paved area.
6. All parking areas for nonresidential and multiple-family dwelling uses shall be designed to allow vehicles to exit front first onto roads.
7. One parking area may contain required spaces for more than one use. The required spaces assigned to one use may not be credited to another use, except where the uses operate at different times. A parking covenant shall be executed.



8. All parking areas shall be surfaced with dust inhibiting materials. The requirement for asphalt parking areas shall be made on a case by case basis by the Approving Board.
9. No portion of any parking space shall extend in to a road right-of-way.
10. At the end of a dead end parking driveway, the driveway shall extend a minimum of 5 feet beyond the last parking space.
11. All parking spaces must be useable, in that they must have access from a driveway, room to back out, and be free of obstructions that affect the use of the space.
12. "Overflow" parking may be considered on a case by case basis by the Approving Board, as an alternative to providing a portion of parking spaces required by the Zoning Law.

### **Section 950. Off-road Loading Facilities**

Sufficient off-road loading facilities shall be provided for each commercial or industrial establishment and shall be so arranged as not to interfere with pedestrians, motor traffic on public roads or with parking spaces or parking driveways. Off-road loading facilities shall be located to the rear of structures where practicable, and shall otherwise be located to the side of structures. All facilities shall be appropriately screened as required of parking areas.

# ARTICLE 10. SIGNS

## Section 1005. Obstructions

No sign shall obstruct by physical or visual means any fire escape, window, door or any opening providing ingress or egress designed for fire or safety equipment, any passageway from part of a structure or roof to another portion thereof or any opening required for ventilation or which is required to remain unobstructed by any applicable law.

## Section 1010. Hazard to Public Safety

Sign which by either use of illumination of color, design or placement, tend to confuse, detract from or in any other way obstruct the utilization of traffic regulatory devices are prohibited. All determination of this type shall be made by the Code Enforcement Officer who shall consider, but not be limited to the following:

1. The use of words such as “stop, go, look, caution, danger and warning” and similar nomenclature.
2. The use of colors and lights in the spectrum of colors utilized by traffic regulatory devices.
3. The use of blinking , intermittent flashing or other animated forms of illumination or light and all sources of illumination which through direct or indirect means create glare.

## Section 1015. Sign Limitations

**A. Purpose** - This section is intended to regulate the signs that normally advertise the name and/or the principal use(s) located on a property, and are not intended to regulate the following types of signs:

1. Regulatory Traffic Signs
2. Property “For Sale” Signs
3. Temporary Sale Signs
4. Window Display Signs
5. Political “Vote For” Signs – displayed for no more than 30 days
6. Directional Signs
7. Entry/Exit Signs
8. Lost/Found Signs

**B. Number of Signs** – One freestanding street sign per business frontage (two allowed on corner lot), plus one wall mounted sign per business frontage(two allowed on corner lot), exclusive of other signs listed in Section 1015 (A).

**C. Location of Signs –**

1. Street Signs - to be located in the front yard of the parcel (out of the public right-of-way), in a location that does not interfere with sight distance for entering/exiting vehicles or vehicles on the public roadway.
2. Wall Mounted Signs – Located generally on the front of the building (or that face of building more visible to the public). Roof mounted signs are not allowed in any district.

**D. Size of Sign (in square feet)**

PLACEMENT	H	W	R-1 <sup>1</sup>	R-2 <sup>1</sup>	CR	C	CI
Street Sign	32	32	6	6	84	84	84
Wall Mounted Sign	32	32	6	6	48	48	48

- E. Sign Height** – The height of signs in all districts shall not exceed 20 feet from the ground level to the base of the signage area.
- F. Sign Construction** - All signs shall be constructed to resist overturning and to avoid hazards to property and the public.

**Section 1020. Sign Permitting Process**

- A. Signs that follow the limitations of Section 1015 are allowed as of right. Those signs exceeding the limitations of Section 1015 require a special permit from the Town Board.
- B. The specifics of all new signs regulated by this Article (number, location, size, height, lighting) to be installed on a property shall be submitted with the application for site plan or special permit review.
- C. Permanent revisions to existing signs are to be reviewed for conformance with this Article and approved by the Code Enforcement Officer, subject to coordination with the Planning Board, if deemed necessary by the Code Enforcement Officer.

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<sup>1</sup> For Home Occupation Signs see Section 640(2) of this law.

### **Section 1030. Sign Maintenance**

The Code Enforcement Officer shall order the removal or repair of any sign not kept in good condition. In making such a determination, the Code Enforcement Officer shall consider, but need not be limited to, the following elements: defective lighting; broken, loose or missing parts; illegibility, or any condition that may constitute a safety hazard.

### **Section 1035. Sign Removal**

The Code Enforcement Officer shall order the removal of any sign that has been abandoned. In making this determination, the Code Enforcement Officer shall consider, but need not be limited to, the following elements: the period of non-use of the activity, business or subject matter advertised by the sign exceeding a period of six months; non-conformance with this Article; and condition of the sign.

# **ARTICLE 11. SITE PLAN REVIEW**

## **Section 1105. Authority**

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans pursuant to Town Law Section 274-a and in accordance with the standards and procedures set forth in this law.

## **Section 1110. Applicability**

The Planning Board shall approve a site plan for all uses designated as requiring site plan review prior to the issuance of a zoning permit or a certificate of compliance by the Code Enforcement Officer.

## **Section 1115. General Review Criteria**

All site plans shall comply with the following general review criteria:

- 1) that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
- 2) that the site is designed so as to be in harmony with the comprehensive plan for the community;
- 3) that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
- 4) that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site and public road system;
- 5) that the internal traffic circulation will provide safe vehicular and pedestrian movement and emergency access to all developed portions of the site;
- 6) that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
- 7) that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;

- 8) that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
- 9) that any changes to existing drainage patterns, or increased drainage due to development activity have no significant adverse impacts on adjacent or down stream properties;
- 10) that proposed water supply and sewage disposal facilities are adequate; and
- 11) that development activity complies with all other standards and requirements of this law.

### **Section 1120. Site Plan Application**

The Code Enforcement Officer shall refer any application for a zoning permit which requires a site plan review to the Planning Board. An application for a site plan review shall be filed with the Planning Board, and the appropriate fee as determined by the fee schedule adopted by Town Board resolution shall be paid to the Town Clerk. The application shall include two original stamped plans and eight(8) copies thereof. A complete application shall include the following:

- 1) Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
- 2) Date, north point, written and graphic scale;
- 3) Boundaries of the site plotted to scale, including distances, bearings, and areas;
- 4) Location map showing the site in relationship to the town;
- 5) Location and ownership of all adjacent lands as shown on the latest tax records;
- 6) Location of all zone district boundaries;
- 7) Location, name, and existing width of adjacent roads;
- 8) Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- 9) Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- 10) Existing hydrologic features together with a grading and drainage plan or report as recommended by the Town Engineer and this Law;

11) Topography – maps provided to the Town for review shall include:

- All planimetric features on and adjacent to the property;
- Existing public utilities along adjacent roadway and on property (well, septic, etc.)
- Existing easements and rights-of-way;
- Existing and proposed contours at an accuracy of two foot intervals in areas to be disturbed by the project. Spot elevations shall be shown in level areas to indicate direction of slope. The Approving Board or Town Engineer may request one foot interval accuracy if the project is such that two ft. contours do not indicate slope of the land.;
- Five ft. contour accuracy may be used to show general topography on the remainder of the property unaffected by the proposed use.

12) Location, proposed use, and height and dimensions of all existing and proposed structures including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;

13) Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;

14) Provision for pedestrian access, including public and private sidewalks;

15) Location of outdoor storage;

16) Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;

17) Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;

18) Location and design of all energy distribution facilities, including electrical, gas, and solar energy;

19) Location, size and design of all proposed signs;

20) Location and design of outdoor lighting facilities;

21) General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;

22) Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service *Engineering Field Manual* (EFM) and New York

*Guidelines for Urban Erosion and Sediment Control*, or other erosion and sediment control manual recognized by the Planning Board;

- 23) An agricultural data statement pursuant to Town Law Section 283-a, when the site is located within 500 feet of an agricultural district;
- 24) A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable;
- 25) An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617;
- 26) Fees as required by Town Board resolution.
- 27) Other elements integral to the proposed development as considered necessary by the Planning Board.
- 28) All site plans shall be submitted on 22" x 34" prints for review. The applicant may also submit half size prints (reduced from the full 22" x 34" prints), on 11" x 17" paper if allowed by the Approving Board. Other size prints may be considered on a case by case basis by the Approving Board.

### **Section 1125. Waiver of Submission Requirements**

The Planning Board may waive by written resolution any of the submission requirements listed in Section 1120 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

### **Section 1130. Environmental Impact Review**

The applicant shall be responsible for the completion of the environmental assessment form (EAF) submitted with each application for site plan review. The Planning Board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any site plan.

### **Section 1135. Review of Application**

Upon a determination by the Planning Board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 1115 above, and all other requirements of this law. As necessary, the Planning Board will refer the site plan to the Town Engineer for review.



## **Section 1140. Area Variance**

If during the course of the review, the Planning Board determines that a site plan approval requires an area variance as defined by Town Law Section 267-a, the Planning Board may refer the application and site plan to the Zoning Board of Appeals for the consideration of such variance.

## **Section 1145. Public Hearing**

The Planning Board shall conduct a public hearing for all site plan reviews. Such public hearing shall be conducted within 62 days of the receipt of the completed application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

## **Section 1150. Waiver of Public Hearing**

The Planning Board may waive, by written resolution, the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

- 1) the use or structure is over 10,000 square feet of floor or ground area;
- 2) the structure is over 40 feet in height;
- 3) the use requires an increase or change in public water supply facilities, sewerage facilities, drainage facilities, sidewalks, roads, curbs, gutters, or other public improvements;
- 4) the use is determined by the Planning Board to be of a controversial nature; or
- 5) the applicant has requested a public hearing.

## **Section 1155. Final Action by Planning Board**

- 1) Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the Planning Board where such hearing has been waived pursuant to Section 1150 above, the Planning Board shall act on the site plan. The time within which the Planning Board must render its decision may be extended upon mutual consent of the applicant and the Planning Board. The action of the Planning Board shall be in the form of a written resolution stating whether the site plan is approved, approved with modifications, or disapproved. In its approval, the Planning Board shall have the authority to impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed site plan. The decision of the Planning

Board shall be filed in the office of the town clerk within five business days of the written resolution, and a copy shall be mailed to the applicant.

- 2) If the site plan is approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the application and site plans.
- 3) If the site plans are approved with modifications, the Planning Board shall specify in the written resolution all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the Planning Board shall endorse its approval on a copy of the application and site plans.
- 4) If the site plans are disapproved, the written resolution shall contain the reasons for such findings.

### **Section 1160. Modifications for Approved Site Plans**

1. An approved Site Plan is related to the property location, not the property owner. If the ownership of a property changes hand, a new Site Plan is not required. The new property owner will be noted in the Town's Code Enforcement records.
2. Proposed modifications of site features (buildings, parking, driveways, etc.) on properties having an approved Site Plan shall proceed under the following guidelines:
  - a. A revised Site Plan and Site Plan Modification Application shall be submitted to the Town Code Enforcement Office.
  - b. The applicant shall meet with the Code Enforcement Officer to explain the requested modifications.
  - c. The Code Enforcement Officer, and as required the Town Engineer, shall review the Site Plan Modification Application, along with the original Site Plan application file, to determine whether there are any potential significant impacts related to the proposed modification, or whether the modification changes any previous condition of approval.
  - d. The Code Enforcement Officer or Town Engineer will prepare a summary memo that explains the modification requested, the results of the Town's review and recommendation for decision on the application. The memo will be filed in the Site Plan file for the property, with copies to the Town Supervisor and Planning Board Chairman.

e. Applications that would not result in significant impacts or change previous conditions of Site Plan approval, as determined by the Codes Enforcement Officer and/or Town Engineer, may be approved administratively by the Codes Enforcement Officer.

f. Application which, upon review, could result in significant impacts, that change previous conditions of approval, or change the original SEQR finding for the Site Plan will be referred for review and final action on the application per Article 11 of this Law.

## **ARTICLE 12. SITE PLAN REVIEW STANDARDS**

### **Section 1210. Site Review Standards**

All site plans reviewed by the Planning Board pursuant to Article 11 shall conform to the standards established below .

### **Section 1220. Access**

Access to all sites shall be consistent with the standards set forth in *Policy and Standards for Entrances to State Highways*, as revised, published by the New York State Department of Transportation.

### **Section 1230. Site Lighting**

1. Exterior site lighting shall be planned, erected, shield. And maintained so the light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way.
2. Light levels at lot lines or road lines adjoining either residentially developed land or H, W, R-1, R-2, or CR zones shall not exceed 0.6 foot-candles, measured at ground level. High intensity lighting shall not be permitted.
3. No illumination source (lamp) shall be placed higher than 15 feet off the ground in H, W, R-1 or R-2. No illumination source (lamp) shall be directly visible from adjacent properties or public rights-of-way. All illumination sources shall be appropriately shielded.
4. Architectural lighting shall be shielded and developed as necessary to adequately promote business operation and public safety. Flood lighting and dramatic landscape lighting shall be minimized and used only for specific effects as noted by the developer on the lighting plan.

## **Section 1240. Screening of Storage and Collection Areas**

1. Open storage areas, exposed machinery, and outdoor areas used for the storage and collection of rubbish, shall be visually screened from roads and surrounding land uses. The Planning Board may relax or modify the visual screening requirement in appropriate cases, such as between adjacent industrial or manufacturing uses.
2. Suitable types of screening include opaque and semi-opaque wood fences (such as board on board) and dense, mixed evergreen and deciduous hedges of a height necessary to screen the intended use. The screening shall be sufficient to screen the site in all seasons.
3. In locations where potential health or safety hazards may arise, such as rubbish storage/collection areas, a solid wooden fence, 6 feet in height is required to deter children and animals from entering the premises. Where new fencing would create a continuous surface greater than 10 feet in length, the visual expanse of bare fence shall be alleviated by plant groupings, consisting of mixed evergreen and deciduous shrubs and trees.

## **Section 1250. Continuation of Streetscape**

In H, W, R-2, and C zones, all multiple-family uses and nonresidential uses shall provide sidewalks, street trees and planted areas along roads in keeping with the pattern established for the road and neighboring properties. Upon request of the applicant to waive one, some or all of these features, the Approving Board will determine which, if any, of these features could be waived.

## **Section 1260. Buffer Area Requirements**

1. Side and rear yard buffer areas shall be required as a landscape and utility area in the following circumstances:
  - a. Where a nonresidential use in a C or CI zone abuts any land in an H, W, R-1, R-2 or CR zone.
  - b. Where a nonresidential use in an H, W, R-1, R-2, or CR zone abuts a residential use in an H, W, R-1, R-2, or CR zone.
2. Buffer areas shall be of a width and landscaping as is determined by the Planning Board to be required to mitigate the impacts of objectionable lights, noise, smoke, odor, and aesthetics. The buffer area between a non-residential use and a residential use shall be at least 5 feet.

3. Buffer area landscaping shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas and ground cover. At a minimum, one shade tree at least 8 feet in height and at least 2 inches in diameter measured at a point 6 inches above finished grade level shall be planted no nearer than 3 feet to any lot line, for each 500 square feet of required landscaped area; and one deciduous shrub or evergreen shall be planted for each 200 square feet of required landscaped area.

### **Section 1270. General Landscaping and Screening Requirements**

1. Landscaping and screening plans shall specify the types of vegetative materials, planting schedule and minimum sizes, and shall be designed to provide suitable cover within 3 years of time of installation. Material will be selected to provide year-round coverage suitable to the climate.
2. All vegetation shall be maintained in a healthy state and condition by the owner, with ground cover or grassed areas, and damaged and dead shrubs and trees shall be removed and replaced at the property owner's expense.

### **Section 1280. Storm Water and Erosion Control**

**1) Storm Water Control:** While the Town reserves the right to establish particular parameters for each individual application, the general approach to storm water control desired by the Town is that no proposed development shall discharge more storm water into adjacent culverts and channels than would occur under the natural, undeveloped condition. In addition, the proposed development shall not block or impede the storm water from upstream areas that naturally drain to the developed area. The following are guidelines for the design of storm drainage facilities to be included, if requested by the Town Board or Planning Board, as part of a special use permit or site plan application:

Design Frequencies: Storm sewer system: 5-yr storm.

Detention system: 50-yr storm with provisions for control of the 2-yr storm, and overflow of the 100-yr storm.

The control of storm water to prevent the increase in drainage to downstream properties and facilities shall be done by providing sufficient detention of the storm water on site. Alternate methods of controlling water may be used, and are subject to the approval of the appropriate Board.

Calculations shall be based on any of the recognized methods commonly used for storm drainage calculations

Calculations for existing and developed conditions shall account for all existing storm water from off-site areas that drains to the proposed development.

For calculation of storm water drainage that affects existing or proposed Town-owned drainage facilities, refer to the Town Highway Construction Specifications for more information.

If required by the Town Board or Planning Board, a drainage report, consisting of text that describes the drainage design, calculation for the design and a map showing drainage areas, existing drainage facilities and proposed drainage facilities shall be submitted with the application for development.

**2) Ownership of Stormwater Management Facilities:** All onsite stormwater management facilities (catch basins, pipes, ponds, etc.) located outside the public right-of-way shall be owned and maintained in operating condition by the property owner. Alternative plans for ownership and maintenance of stormwater facilities may be considered by the Town Board.

**3) Erosion Control:** Applications for special use permit or site plan approval shall address the requirement for the potential of soil erosion. For significant development, development near environmentally sensitive areas, or as ordered by the Town Board or Planning Board, erosion and sediment control measures will be required. All erosion and sediment control measures shall be in accordance with the New York Guidelines for Urban Erosion and Sediment Control ( 10/91, and as amended ), and shall be shown on the site plan.

## **ARTICLE 13. SPECIAL USE PERMIT**

### **Section 1305. Authority**

The Town Board is hereby authorized to review and approve, approve with modifications, or disapprove special uses in accordance with the standards and procedures set forth in this law.

### **Section 1310. Applicability**

All uses designated as requiring a special use permit shall be approved by the Town Board prior to the issuance of a zoning permit or a certificate of compliance by the Code Enforcement Officer.

### **Section 1315. Special Use Objectives**

1. In considering and acting on special uses, the Town Board shall consider whether or not the use is in the best interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed development, and the residents of the immediate surrounding area.
2. The Town Board may attach to the approval of a special use permit such conditions and safeguards as it deems necessary or appropriate to further the following objectives:
  - a. *Compatibility:* That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community, and will have no undue adverse impact upon the natural environment or the character or integrity of any unique culturally, historically, or architecturally significant land use.
  - b. *Public Facilities:* That the public facilities required to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use; and
  - c. *Other Requirements:* That the proposed use complies with all requirements of this law.

### **Section 1320. Application**

Applications for special use permit shall comply with the same provisions as have been set forth in Section 1120 of this law for site plan reviews.

### **Section 1325. Waiver of Submission Requirements**

The Town Board may waive, by written resolution any of the submission requirements listed in Section 1120 of this law where it deems that the information is either not applicable or is unnecessary to a particular special use review.

### **Section 1330. Environmental Impact Review**

The applicant shall be responsible for the completion of an environmental assessment form (EAF) submitted with each application for a special use permit. The Town Board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review Act regulations) in cooperation with other involved agencies in the review of any special use.

### **Section 1335. Referral to Town Planning Board**

Upon a determination by the Town Board that the application for a special use permit is complete, the board shall refer the application to the Town Planning Board for its consideration. The Town Planning Board shall make its recommendation on the approval, approval with modifications, or disapproval of the special use permit to the Town Board within 45 days of the Town Board referral.

### **Section 1340. Town Planning Board Recommendation**

The Planning Board recommendation on the special use permit may include, but shall not be limited to means of compliance with the criteria for site plan review as outlined in Section 1115 of this law, the special use objectives of Section 1315 of this law, and any other requirements of this law. The Planning Board may recommend such conditions or restrictions as it deems necessary or appropriate to ensure compliance the comprehensive plan and the provisions of this law.

### **Section 1345. Town Board Review**

Upon a determination by the Town Board that the application for a special use permit is complete, the board shall review the application taking into consideration compliance with the criteria for site plan review as outlined in Section 1115 of this law, the special use objectives of Section 1315 of this law, and all other requirements of this law.



## **Section 1350. Area Variance**

If during the course of the review, the Town Board determines that a site plan approval requires a area variance as defined by Town Law Section 267-a, the Town Board may refer the application and site plans to the Town Zoning Board of Appeals for the consideration of such variance.

## **Section 1355. Public Hearing**

The Town Board shall conduct a public hearing on each special use permit application before making a final determination. Such public hearing shall be conducted within 62 days of the receipt of the completed application for a special use review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing. In addition, the property must also have a sign posted on it indicating that this property is undergoing special use review. The sign will be supplied by the Town and paid for by the applicant. The sign must be posted at least 5 days before the Town Board public hearing concerning the site plan application, and remain posted on the property until the Town Board has rendered a decision.

## **Section 1360. Final Action**

1. Within 62 days of the public hearing the Town Board shall act on the application. The time within which the Town Board must render its decision may be extended upon mutual consent of the applicant and the Town Board. The action of the Town Board shall be in the form of a written resolution stating whether the application was approved, approved with conditions or modifications, or disapproved. In its approval, the Town Board may impose such reasonable conditions and restrictions on the issuance of a zoning permit for the application as are directly related to and incidental to a proposed use. The decision of the Town Board shall be filed in the office of the town clerk within five business days of the written resolution, and a copy shall be mailed to the applicant.
2. If the application is approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the Town Board shall endorse its approval on a copy of the application.
3. If the application is approved with conditions or modifications, the Town Board shall specify in the written resolution all conditions or modifications imposed. Upon payment by the applicant of all fees and reimbursable costs due the town, and upon approval of the modified application, the Town Board shall endorse its approval on a copy of the application.

4. If the application is disapproved, the written resolution shall contain the reasons for the Town Boards determination.

### **Section 1365. Modifications for Approved Special Use Permits**

1. An approved Special Use Permit is related to the property location, not the property owner. If the ownership of a property changes hand, a new special use permit is not required. The new property owner will be noted in the Town's Code Enforcement records, and the existing or ongoing site requirements stemming from the original Special Use Permit will be discussed with the new owner.
2. When a new primary use for the property is proposed, either by the existing property owner or a new owner, which requires a Special Use Permit under this law, new Special Use Permit application will be required. The application will be processed in accordance with Article 13 – Special Use Permit.
3. Proposed modifications of site features (buildings, parking, driveways, etc.) on properties having an approved Special Use Permit shall proceed under the following guidelines:
  - a. A revised Site Plan and Site Plan Modification Application shall be submitted to the Town Code Enforcement Office.
  - b. The applicant shall meet with the Code Enforcement Officer to explain the requested modifications.
  - c. The Code Enforcement Officer, and as required the Town Engineer, shall review the Site Plan Modification Application, along with the original Site Plan application file, to determine whether there are any potential significant impacts related to the proposed modification or change to previous conditions of approval.
  - d. The Code Enforcement Officer or Town Engineer will prepare a summary memo that explains the modification requested, the results of the Town's review and recommendation for decision on the application. The memo will be filed in the Special Use Permit file for the property, with copies to the Town Supervisor and Planning Board Chairman.
  - e. Applications that would not result in significant impacts or changes to previous conditions of approvals, as determined by the Codes Enforcement Officer and/or Town Engineer, may be approved administratively by the Codes Enforcement Officer.
  - f. Application which, upon review, could result in significant impacts, changes to previous conditions of approval, or change the original SEQOR finding for the Special Use Permit will be referred to the Town Planning Board for review, and then to the Town Board for review and final action on the application.

# ARTICLE 14. COMMUNICATION TOWERS

## Section 1410. Intent

The Town of Hastings recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of communications towers. The intent of this Article is to protect the Town's interest in siting towers in a manner consistent with sound land use planning by:

1. Minimizing visual effects of towers through careful design, siting and vegetative screening;
2. Avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures; and
3. Maximizing use of any new or existing tower and encouraging the use of existing buildings and/or structures to reduce the number of towers needed;

While also allowing wireless service providers to meet their technological and service objectives for the benefit of the public.

## Section 1420. Approvals Required for Telecommunications Facilities

1. **Co-Located Antennas**- Telecommunications Facilities comprised of Co-located Antennas (and Accessory Structures) shall be permitted in any district upon the issuance of a building permit in accordance with the standards set forth in this Law.
2. **New Towers**- Telecommunications Facilities requiring construction of a new Tower also shall be deemed a permitted use in any district, but shall require the following permits and/or approvals:
  - (a) On municipal or government owned property at any height, a Tower shall be permitted upon the issuance of a building permit in accordance with the standards set forth in this Law.
  - (b) In CR, C and CI districts where the proposed Tower location is more than 500 feet from any adjoining residential use and the proposed Tower is 150 feet or less in height, Site Plan approval from the Planning Board shall be required in accordance with the standards set forth in Section 1115 and Section 1440 of this Law.
  - (c) In all other districts, locations and heights greater than 150 feet in CR, C and CI districts, Telecommunications Facilities requiring construction of a new Tower shall require approval of a Special Use Permit from the Town Board in accordance with the standards set forth in Section 1315 and Section 1440 of this Law.

## **Section 1430. Application Materials and Supporting Documentation**

1. For each Telecommunications Facility requiring only a building permit, the applicant shall submit a written application and such other supporting materials as generally required for such permit in this Law.
2. For each Telecommunications Facility requiring a Site Plan approval or Special Use Permit, the applicant shall submit a written application for such permit to the appropriate Board on a form prescribed by that Board.
3. Each applicant for Telecommunications Facility, other than a Telecommunications Facility requiring only the issuance of a building permit, shall submit a full Environmental Assessment Form, with Visual Addendum, and an analysis demonstrating that location of the Telecommunications Facility as proposed is necessary to meet the frequency reuse and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. In addition, each applicant shall submit a site plan prepared to scale and in sufficient detail and accuracy showing at a minimum:
  - (a) The exact location of the proposed Telecommunications Facility and/or Tower, together with any guy wires and guy anchors, if applicable;
  - (b) The maximum height of the proposed Telecommunications Facility and/or Tower;
  - (c) A detail of Tower type (mono-pole, guyed, free-standing or other);
  - (d) The location, type and intensity of any lighting on the Tower;
  - (e) Property boundaries and names of adjacent land owners;
  - (f) Proof of the landowner's consent if the applicant does not own the property;
  - (g) The location of all other structures on the property and all structures on any adjacent property within ten (10) feet of the property lines, together with the distance of those structures to any proposed Tower;
  - (h) The location, nature and extent of any proposed fencing, landscaping and/or screening; and
  - (i) The location and nature of proposed utility easements and access road, if applicable.

## Section 1440. Additional Requirements and Standards

1. The following criteria and additional requirements shall apply to each application for site plan and special use permit approval for a Telecommunications Facility:
  - (a) **Setbacks**- All towers shall be setback from all adjacent property lines a sufficient distance to safeguard the general public and/or adjacent property. In the absence of any evidence supporting a greater or lesser setback distance, a setback of a Tower equal to (1) from any adjacent residential property line the Tower Height and (2) at least fifty (50) feet from any other adjacent property line, shall be deemed adequate. The required setbacks may be decreased in those instances when the applicant has submitted plans for a Tower designed to minimize damage to adjacent properties in the event of a structural failure. Accessory structures and guy anchors must comply with the minimum setback requirements of the underlying district.
  - (b) **Future Shared Use of Towers**- In the interest of minimizing the number of new Towers, the Planning Board or Town Board may require, as a condition of the respective Boards approval, that the applicant indicate in writing its commitment to co-location of Telecommunications Facilities and that the applicant will design the Tower to have a minimum height and carrying capacity needed to provide future shared usage. The condition for co-location may not be required if the applicant demonstrates that the provision of future shared usage is not feasible or imposes an unnecessary burden based upon (1) the number of Federal Communications Commission (FCC) licenses foreseeably available for the area; (2) the kind of Tower site and structure proposed; (3) the number of existing and potential licensees without Tower space; (4) available spaces on other existing and approved Towers; and (5) potential adverse visual impacts of Towers designed for shared usage.
  - (c) **Aesthetics**- Telecommunications Facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help insure compatibility with surrounding land uses. In order to minimize adverse aesthetic effects on neighboring residences to the extent possible, the Planning Board and Town Board may impose reasonable conditions on the applicant, including the following:
    - (1) The Planning Board and Town Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the Tower and Accessory Structure to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

- (2) The Planning Board and Town Board may require that the Tower be designed and sited so as to avoid, if possible, application of Federal Aviation Administration (FAA) lighting and painting requirements, its being generally understood that Towers should not be artificially lighted, except as required by the FAA;
- (3) The Tower shall be of a galvanized finish or painted matte gray unless otherwise required by the FAA, and accessory facilities should maximize use of building materials, colors and textures designed to blend with the natural surroundings; and
- (4) No Tower shall contain any signs or advertising devices.

(d) **Traffic, Access and Safety**

- (1) A road turnaround and two (2) parking spaces shall be provided to assure adequate emergency and service access to the tower site. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting and road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (2) All Towers and guy anchors, if applicable, shall be enclosed by a fence not less than six (6) feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism.
- (3) The applicant must comply with all applicable State and Federal regulations including, but not limited to, FAA and FCC regulations.
- (4) Upon written request from the Town, the applicant shall provide a certification from a qualified, licensed engineer, certifying that the Tower or Telecommunications Facility meets applicable structural safety standards.

- (e) **Removal of Obsolete/Unused Facilities**- The applicant shall agree, in writing, to remove the Tower or Antennas if the Telecommunications Facility becomes obsolete or ceases to be used for its intended purpose for twelve (12) consecutive months. Removal of such obsolete and/or unused Tower or Antennas shall take place within twelve (12) months of cessation of use. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete Tower or Antennas upon any person subsequently securing rights to co-locate on the Tower or Telecommunication Facility.

2. The following criteria and additional requirements shall apply to each application :

- (a) **Height-** the building height regulations established in Section 615 shall not apply to Towers, provided that the applicant submits sufficient information to justify the proposed height as the minimum necessary to achieve its coverage objectives. In no event, however, shall any Tower exceed a height of 250 feet without first obtaining a height variance from the Zoning Board of Appeals.
- (b) **Shared Use of Existing Towers and/or Structures-** At all times, shared use of existing Towers and/or structures shall be preferred to the construction of new Towers. An applicant for a Tower approval shall present a report inventorying existing Towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new Tower. The applicant shall submit documentation demonstrating good faith efforts to secure shared use on existing Towers or structures as well as documentation of the technical, physical and/or financial reasons why shared usage is not proposed. Written requests for shared use shall be provided where applicable. The applicant shall also demonstrate efforts to locate a new Tower on the same site as an existing Tower or structure, if it is not co-locating on the existing Tower or structure.

### **Section 1450. Exemptions**

The following types of Telecommunication Facilities are not subject to the provisions of the Article.

1. Antennas used solely for residential household television and radio reception.
2. Satellite antennas measuring two (2) meters or less in diameter.

### **Section 1455. Repair and Maintenance**

Telecommunication Facilities may be repaired and maintained without restrictions.

# **ARTICLE 15. NONCONFORMITIES**

## **Section 1510. Intent**

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this law which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of non-conforming lots, structures or uses. The person claiming the right to a legal non-conformity, shall have the burden of proving entitlement to legal non-conforming status.

## **Section 1520. Non-conforming Lots**

Any lot legally existing and held under separate ownership prior to the enactment or amendment of this law, and having a width, depth or area less than the minimum requirements set forth in this law, may be developed in conformity with the provisions of this law.

## **Section 1530. Non-conforming Structures**

No structure which by the enactment or amendment of this law is made non-conforming or placed in a non-conforming situation with regard to yard sizes, setbacks, lot coverage, height or any other requirement of this law, other than the use to which it is put, shall be altered so as to increase its nonconformity. If a structure is non-conforming as to use, see Section 1540 below. Any such non-conforming structure may be used for any compatible use listed for the zone in which it is located as designated in this law.

## **Section 1540. Non-conforming Uses of Land or Structures**

Any legal use of land or structures which by the enactment or amendment of this law is made non-conforming may be continued on the premises and to the extent preexisting provided that:

1. no non-conforming use shall be increased in size so as to occupy a greater area of land or floor area than existed at the time of such enactment or amendment;
2. no non-conforming use which has for any reason been abandoned for a period of one year or more shall be re-established; and
3. a special use permit shall be required for any alteration or reconstruction in which a legal non-conforming multi-family residential or nonresidential use is conducted.



## **Section 1550. Non-conforming Structures Damaged or Destroyed**

Any legal non-conforming use or structure, which is damaged or destroyed by fire or other hazard, may be repaired, restored or reconstructed provided that such work is undertaken within one year of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the use or structure.

## **Section 1560. Certificate of Legal Nonconformity**

The Code Enforcement Officer may issue a certificate of legal nonconformity to the owner of any non-conforming property upon the request of the owner certifying the legal non-conforming status of the property. Such certificate may be issued by the zoning officer upon the owner providing acceptable proof of such legal non-conforming status to the Code Enforcement Officer.

# ARTICLE 16. ADMINISTRATION AND ENFORCEMENT

## Section 1605. Zoning Permits Required

No land-use activity as listed below shall be carried out until a zoning permit has been issued by the Code Enforcement Officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this law:

1. Erection, re-erection or movement of a building or structure;
2. Change of the exterior structural dimensions of a building or structure;
3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
4. The resumption of any use which has been discontinued for a period of 12 months or longer;
5. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses;
6. Placement of a sign as regulated in **Article 10** of this law.

## Section 1610. Zoning Permit Exemptions

A zoning permit shall not be required for:

1. Accessory structures with less than 140 square feet of ground coverage;
2. Exempt signs listed in **Article 10** of this law;
3. Fences or walls complying with Section 610 of this law;
4. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
5. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.;
7. Non-structural agricultural and forest management uses.

## **Section 1615. Temporary Zoning Permits**

Temporary zoning permits may be issued upon approval of the Planning Board for a period not to exceed 6 months for temporary uses and structures incidental to a construction project. Such temporary zoning permit shall be conditioned upon agreement by the applicant to remove any non-conforming uses or structures upon expiration of the permit. The Planning Board may place such appropriate conditions such as posting financial security on the temporary use so as to protect the character of the surrounding area.

## **Section 1620. Application Procedure for Zoning Permits**

1. Applications for zoning permits shall be submitted to the Code Enforcement Officer and shall include one copy of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road lines, mean high water lines of lakes, streams, ponds and wetlands, and any other features of the lot; and such other information as may be necessary to provide for the enforcement of this law. This information, and other relevant application data, shall be provided on forms issued by the Code Enforcement Officer.
2. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road line, or nearest mean high water line to the nearest part of the structure, including such projecting features as porches, decks, carports, attached garages, etc.
3. The Code Enforcement Officer shall take action to approve or disapprove the application within 10 days of the receipt of a completed application and the payment of all fees.
4. A zoning permit shall expire one year from the date of issue if construction is not substantially started or the use has not commenced. Such permit may be renewed upon payment of all fees.

## **Section 1625. Permit Fees**

1. A fee as determined by Town Board resolution shall be paid for each application for a zoning permit, site plan review, special use permit, temporary zoning permits, temporary certificate of zoning compliance, certificate of zoning compliance, etc.. No permit shall be issued until full payment has been received by the Town Clerk.
2. The Town Board and Planning Board may retain consulting services from engineers, architects, landscape architects, lawyers, planners, or other professional services during the

course of site plan reviews, special use approval reviews, and site inspections conducted pursuant to this law. The applicant shall pay any actual costs incurred by the Town, attributable to a consultant's review of an application. The Town may require the applicant to deposit such funds as may be necessary to pay for these services with the Town in advance. Any funds not used for the review shall be returned to the applicant.

### **Section 1630. Certificate of Compliance**

No use or structure requiring a zoning permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the Code Enforcement Officer stating that the use or structure complies with the provisions of this law. All certificates of compliance shall be applied for coincidentally with the application for a zoning permit and shall be issued within 10 days after the use or structure has been approved as complying with the provisions of this law.

### **Section 1635. Temporary Certificate of Compliance**

A temporary certificate of compliance for not more than six months for a part of a use or structure may be issued by the Code Enforcement Officer. Such temporary certificate may be renewed upon request.

### **Section 1640. Unapproved Lots**

No zoning permit or certificate of compliance shall be issued for any use or structure on any lot which has not been filed in the office of the County Clerk after the effective date of the Town of Hastings Subdivision Regulations, unless such lot is included in a plat which has been approved by the Planning Board and filed with the office of the County Clerk, or was exempt from said law at the time of filing.

### **Section 1645. Code Enforcement Officer**

This law shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. The duties of the Code Enforcement Officer shall be to:

1. Approve and disapprove zoning permits and certificates of compliance;
2. Scale and interpret zone boundaries on the Zoning Map;

3. Refer appropriate matters to the Board of Appeals, Planning Board, or Town Board; and offer information to the Boards that the Code Enforcement Officer feels is pertinent to the matter;
4. Make such inspections as are necessary to insure compliance with this law upon giving the owner reasonable notice of the intent to inspect a use or structure and after securing the permission of the owner of any use or structure being inspected;
5. Revoke zoning permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
6. Investigate violations, issue stop work orders and appearance tickets, and refer violations to the town justice or the Town Board;
7. Issue certificates of legal nonconformity.

### **Section 1650. Zoning Board of Appeals**

A seven-member Zoning Board of Appeals is hereby created pursuant to Town Law Section 267. The Board of Appeals shall have all the power and duties prescribed by Town Law Section 267-b and by this law, which are more particularly specified as follows:

1. **Interpretations:** Upon appeal from a decision by the Code Enforcement Officer, to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary.
2. **Variances:** Upon appeal from a decision by the Code Enforcement Officer, or upon referral by the Planning Board or Town Board, to vary the strict application of any of the requirements of this law.

All applications for interpretations and variances shall be made and reviewed in compliance with the administrative regulations established by the Zoning Board of Appeals.

### **Section 1652. Procedures Before Zoning Board of Appeals**

The Zoning Board of Appeals' jurisdiction shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the administrative official charge with the enforcement of this law. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.

1. **Time to Appeal** - Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of this law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
2. **Stay Upon Appeal** - An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this law, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise by a restraining order which may be granted by the Zoning Board of Appeals or by a Court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
3. **Public Hearing on Appeal** - The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person or by agent or attorney.
4. **Time of Decision** - The Zoning Board of Appeals shall decide upon the appeal within 62 days after the close of said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
5. **Filing of Decision and Notice** - The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
6. **Compliance With Town Law** - In all the respects, the Zoning Board of Appeals shall comply with the procedural requirements of Town Law Section 267-a in hearing appeals.

## **Section 1655. Planning Board**

The Planning Board shall have the following powers and duties with respect to this law:

1. Review, approval, approval with modification and denial of site plans.
2. Approval and denial of temporary zoning permits.

3. Make recommendations to the Town Board and Zoning Board of Appeals.

### **Section 1660. Town Board**

The Town Board shall have the following powers and duties with respect to this law:

1. Adoption and amendment of this law;
2. Review, approval, approval with modification and denial of special uses permits.
3. Determine fees applicable to this law.
4. Approval and denial of Plan Development Zones (PD) and site plans within PD zones.

### **Section 1665. Violations**

1. Any person may file a complaint concerning an alleged violation of this law. All such complaints shall be in writing and shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Code Enforcement Officer shall issue a written notice of violation and may issue an order to stop work to the owner or occupant of the premises. Such notice shall require all work to cease until the violation is corrected.
2. The notice of violation shall contain the following:
  - a. the nature and details of such violation;
  - b. the recommended remedial action to be taken to effect compliance with the provisions of this law; and
  - c. the date by which compliance must be remedied.
3. If the violation is not corrected within the specified time the Code Enforcement Officer shall take action to compel compliance. Pursuant to Criminal Procedure Law Section 150.20 (3), the Code Enforcement Officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the town justice.

## **Section 1670. Penalties**

### **A. Notices and Orders; Service; Extension of Time; Appeal**

a. Whenever the Code Enforcement Officer determines that there has been a violation or; that there are reasonable grounds to believe that there has been a violation of any provision of this Local Law, said Officer shall give written notice of such violation or alleged violation to the person or persons responsible for such violation. Such persons shall include bot the owner and occupant in the event that the occupant is not the owner, if known.

b. Such notice shall:

- 1) Specify in detail the factual basis for the alleged violation;
- 2) Provide fifteen (15) days for compliance, measured from the date of posting said notice as hereafter described or such lessor periods of time when an emergency exists as may be determined by the Codes Enforcement Officer;
- 3) The Code Enforcement Officer may, for good cause, shown in said discretion, extend the compliance time specified in any notice or order issued under the provisions of this Local Law;
- 4) It shall be sufficient service of a notice and order of the Code Enforcement Officer if said notice is posted in a conspicuous place upon the premises affected and copy thereof mailed to the person to whom it is directed at the address filed by such person with the Town Clerk, and if such person's address is not so filed in the office of the Town Clerk, then in such case such notice shall be sent by certified mail to such person's last known address or place of residence.

c. The owner or the occupant shall have the right of appeal from the decision or actions of the Code Enforcement Officer pursuant to Subdivision B herein by filing a written notice of appeal specifying the grounds for the appeal with both the Town Clerk and the Code Enforcement Officer. Such notice of appeal must be filed within ten (10) days of the posting of such notice as heretofore required. Such appeal shall be heard and determined by the Town Board at its next scheduled public meeting when both the Code Enforcement Officer and the owner or occupant shall present their respective positions with evidentiary proof. Further proceedings under this Local Law shall be stayed from the filing of the notice of appeal hereunder until a determination by the Town Board as herein is provided for.

d. Proceedings initiated by the Code Enforcement Officer pursuant to this Section shall not preclude the Code Enforcement Officer from utilizing the provisions for the imposition of fines and other relief set forth hereafter in Subdivision C of this Local Law.



## **B. Discharge of Owner's Duties by Town**

- a. If the owner, or occupant in the event such person is not the owner, fails to comply with the notice of violation within twenty (20) days after the notice is sent, the Code Enforcement Officer may have the owner's compliance duties discharged by town employees or contractors. It shall be the personal obligation of the owner to reimburse the Town for its expenses incurred in discharging said owner's responsibilities regardless of whether the owner is the occupant of said premises.
- b. The expense incurred by the Town hereunder, plus fifteen percent (15%) of such amount, shall be charged to and paid by the person(s) responsible for such violation. The Code Enforcement Officer shall file with the Town Assessor a statement of the items of expense, including the surcharge authorized hereunder, and the date of execution of actions authorized hereunder. The Town Assessor shall proceed to collect said sums owing to the Town by adding them to the next year's property tax of such property and in any manner provided by law, if in the meantime said amount is not paid by the person(s) responsible.

## **C. Penalties for Offenses**

- a. The owner or occupant of any such place of business or residence, or any person who commits or permits any acts in violation of any of the provisions of this Local Law, or fails to comply with the provisions thereof, shall be deemed to have committed an offense against such Local Law, and also be liable for any such violation or the penalty therefore. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- b. For every violation of any provision of this Local Law, the person violating the same shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) per day for each offense. Each day that such violation continues shall constitute a separate violation.
- c. The notice of violation shall specify the last date when each violation shall be corrected, but not more than thirty (30) days after posting of the required notice. The Code Enforcement Officer may postpone the last day when a violation shall be corrected upon a showing by the owner or other responsible person that said person has begun to correct the violation, but full correction of the violation cannot be completed within the time provided because of technical difficulties, inability to obtain necessary materials or labor, or inability to gain access to the premises where the violation occurs.
- d. The Town Attorney or Code Enforcement Officer may maintain an action or special proceeding in a court of competent jurisdiction for the recovery of civil penalties as herein described in Subdivision C, together with costs and disbursements.
- e. The defendant or respondent in any action or proceeding for civil penalties may show, in mitigation of his or her liability:

1) That the violation giving rise to the action was caused by the willful act, or gross negligence, neglect, or abuse of another; or

2) That he or she has begun to correct the violation properly upon receipt of notice thereof, but that full correction could not be completed within the time provided because of technical difficulties, inability to obtain necessary materials or labor, or inability to gain access to the premises where the violation occurs.

f. In addition to the above provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such Local Law.

## **ARTICLE 17. MISCELLANEOUS PROVISIONS**

### **Section 1710. Amendments**

The Town Board may amend the provisions of this law pursuant to Town Law Section 265 and Municipal Home Rule Law Article 3 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the county Planning Board pursuant to General Municipal Law Section 239-m.

### **Section 1720. Interpretation**

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted statute, law, rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **Section 1730. Severability**

Should any article, section, subsection, sentence or clause of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### **Section 1740. Effective Date**

The provisions of this law shall take effect upon filing with the Secretary of State of New York.