

# ***TOWN OF HANOVER ZONING LAW***

***December 2020***

**TOWN OF HANOVER  
68 HANOVER STREET  
SILVER CREEK, NEW YORK 14136  
(716) 934-2920**



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# ARTICLE I – TITLE, SCOPE, AUTHORITY and PURPOSES

## § 101 – TITLE, SCOPE and AUTHORITY.

- A. **Title** – This Local Law shall be known as “A Local Law enacting a new Zoning Law for the Town of Hanover,” and adopted as Local Law No. \_\_\_ of 2020. This Local Law may be cited as the “Town of Hanover Zoning Law.”
- B. **Scope** – This local law regulates the location, design, construction, alteration, occupancy, and use of buildings and structures and the development of land within the Town of Hanover, outside the incorporated Village of Silver Creek, and for the purposes stated below divides the Town into Zoning Districts as enumerated in Article II of this law.
- C. **Authority** – This Local Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, § 10 et seq., and the Consolidated Laws of the State of New York, Chapter 62, Article 16.

## § 102 – PURPOSE.

The purposes of this Local Law are:

- A. To promote the public health, safety, morals, comfort and general welfare of all.
- B. To conserve the values of property throughout the Town of Hanover and to protect the character and stability of agriculture, residential and business areas and to promote the orderly and beneficial development of such areas.
- C. To provide adequate light, air, privacy, and the conveniences of access to property.
- D. To lessen or avoid congestion in the public streets and highways, including provision for and control of parking.
- E. To regulate and restrict the location and use of buildings, structures and land for trade, residence and the other uses, and to regulate and restrict the intensity of such uses, and to establish building or setback lines.
- F. To divide the entire Town (outside of the limits of Village) into districts of such number, shape and area and of such different classes, according to the use of the land and buildings, and the intensity of such use, as may be deemed the best suited to carry out the purpose of this Local Law.

- G. To regulate uses, buildings or structures incompatible with the character of such districts respectively.
- H. To regulate additions to and alterations or remodeling of existing buildings or structures in such a way as to assure compliance with the restrictions and limitations lawfully imposed hereunder.
- I. To encourage flexibility in the design and development of land so as to promote its most appropriate use, facilitate the adequate economic provisions of streets and utilities. Preserve the natural and scenic qualities of open land and enhance and protect the environmental quality of the Town.

### **§ 103 – INTERPRETATION.**

All provisions of this Local Law, in their interpretation and application, shall be held to the minimum requirements for the promotion of the public health, safety and general welfare.

### **§ 104 – CONFLICT WITH STATE LAWS.**

To the extent that any provisions of this Local Law are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, the Town Board of the Town of Hanover hereby declares its intent to supersede those sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, § 10, et seq., of the Consolidated Laws of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town hereby declares that it would have enacted this Zoning Law and superseded such inconsistent provision had it been apparent.

### **§ 105 – EFFECT ON OTHER LAWS AND SPECIAL ARRANGEMENTS.**

It is not intended by this Local Law to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that when this Local Law imposes a greater restriction on the use of structures or land or on the heights of structures, or requires larger open spaces, or imposes any higher standards than are imposed or required by any easement, covenant, or agreement, the provisions of this Local Law shall control. Where the requirements of this Local Law differ from the requirements of another statute, law, ordinance, rule, or regulation, the more restrictive standard shall govern, unless this Local Law specifically states otherwise.

### **§ 106 – APPLICATION OF REGULATIONS.**

- A. **Compliance Responsibility** – It shall be the responsibility of all property owners,

developers, lessors, or others involved with the temporary or permanent use of land or structures to comply with the regulations of this zoning law. No building shall be used, occupied, erected, moved or altered unless in conformity with the regulations specified for the District in which it is located.

**B. Regulation Applicability** – The requirements of this Law shall apply and shall require a zoning/building permit (unless specifically exempted from such requirements by this Law) for the following situations:

- 1.) To occupy a structure or land;
- 2.) To erect, alter, enlarge, move or demolish a structure; and
- 3.) To change one use to another use to include the increasing of families utilizing the land or structures.
- 4.) No building shall hereafter be erected or altered:
  - a.) to exceed the maximum height than is required for the District in which such building is located;
  - b.) to occupy a greater percentage of lot area than is required for the District in which such building is located;
  - c.) to accommodate or house a greater number of families than is required for the District in which such building is located; or
  - d.) to have narrower or smaller front yard, rear yard, side yard or other open space than is required for the District in which such building is located.
- 5.) No part of a yard about any building or other open space required shall be included as part of a yard or other open space similarly required for another building unless specified by the Planning Board as part of an open space conservation subdivision.
- 6.) No more than one single-family dwelling or two-family dwelling shall be permitted on each lot.
- 7.) No off-street parking or loading space required for one building or use shall be included as meeting, in whole or part, the off-street parking or loading space required for another building or use except as provided in Article V, Section 504.
- 8.) No off-street parking or loading space shall be so reduced in area that it does not meet the requirements of this Law.

**C. Other Related Regulations** – The following regulations shall, as applicable, be

complied with prior to occupancy or where specifically stated prior to issuance of a zoning permit:

- 1.) Subdivision Laws – State and existing local subdivision laws must be complied with in addition to this Zoning Law.
- 2.) National Flood Insurance Program – It shall be the responsibility of the applicant for a zoning/building permit to insure that the National Flood Insurance Regulations in addition to this Zoning Law shall be complied with for those parcels located within the flood plain as shown on Official Flood Insurance Administration Maps, in addition to the requirements of this Zoning Law.
- 3.) State Environmental Quality Review Act – Any development requiring a permit, as well as amendments to this law, shall be subject to an Environmental Assessment in accordance with the New York State State Environmental Quality Review Act (SEQRA). (Please refer to Article 8 of the Environmental Conservation Law (ECL)).
- 4.) Health Department Regulations – In areas not served by municipal sewer or water systems, the regulations of the state, county, and local health departments, with respect to water supply and sewage disposal facilities, will apply. The applicant for a building or zoning permit must obtain approval from the Chautauqua County Department of Health for attachment to the application before the granting of a certificate of occupancy.
- 5.) Fire and Building Codes – No structure shall be erected, altered, or used unless it also complies, where applicable, with the New York State Uniform Fire and Building Code. It shall be the responsibility of the applicant to seek review and approval from the Fire and Building Code Enforcement Officer. The Enforcement Officer shall receive and maintain copies of all zoning permits.
- 6.) Wetland – Development taking place within 100 ft. of State designated wetlands require a Department of Environmental Conservation Permit.
- 7.) Right-Of-Way Crossing – The appropriate Highway Superintendent should be contacted prior to constructing a driveway or any other activity involving a highway right-of-way.
- 8.) Excavation and Utility Lines – Any contractor or person Excavating shall notify 811, “Call Before You Dig,” or the municipal clerk to obtain a current list of operators of underground facilities in accordance with Part 53, Title 12, Rules and Regulations of the State of New York. All contractors shall then notify all “operators” two to ten days prior to commencing excavation.

## **§ 107 – REPEAL AND REPLACEMENT OF PRIOR ZONING LAW.**

By this Local Law, the Town Board of the Town of Hanover hereby repeals the Town's prior Zoning Law and replaces it with this Zoning Law. This shall take place at the moment this Zoning Law becomes effective.

### **§ 108 – SEPARABILITY.**

If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

### **§ 109 – FEES.**

Any and all fees pertaining to the administration of the Town of Hanover Zoning Law as enacted, including prior provisions of same, shall be set by the Town Board of the Town of Hanover by resolution, and may be amended in the discretion of the Town Board from time to time, as deemed prudent by the Town Board, by Town Board resolution. Any and all fees pertaining to the administration of the Town of Hanover Zoning Law, Planning Laws, and/or any other code provisions are not intended to be revoked or repealed by enactment of this local law, providing for a Town of Hanover Zoning Law 2020.





## ARTICLE II – ESTABLISHMENT OF DISTRICTS

### **§ 201 – CREATION AND ENUMERATION OF DISTRICTS.**

The following zoning districts are established in the Town of Hanover for the purpose of implementing the land use goals of the Town and of this Law. While each purpose statement below is intended to generally describe the community's intent and the types of land uses allowed in each district, the Town's official zoning map and specific regulations stated elsewhere in this Law shall take precedence over any particular purpose statement.

#### **Hanover Districts (Outside Forestville Hamlet)**

- 1.) Agricultural and Residential (A-1) – The A-1 District is established to separate by sufficient distance, residential uses in order to maintain a reasonable ground water level to individual wells and water supply systems under the majority of soil conditions; to provide adequate area for disposal of sanitary sewage waste under the majority of soil conditions; and to guide growth in such a manner that central municipal facilities will not be necessary until the demand for a higher pattern of density is such that an economic installation of municipal water and sewage systems is feasible, thereby preserving the physical and economic stability and preventing detrimental urban encroachment.
- 2.) Residential (R-1) – The R-1 District is established to protect existing single-family neighborhoods from encroachment of uses not in character with those neighborhoods. Very few other uses are allowed in this district.
- 3.) Residential and Recreational (R-2) – The R-2 District is located adjacent to the Lake Erie shoreline, where single-family residences and recreational uses coexist. This district is intended to protect residential neighborhoods from incompatible uses while allowing for compatible recreational uses.
- 4.) Residential and Recreational (R-3) – The R-3 District encompasses the Hamlet of Irving and is intended to balance residential and compatible commercial uses. A greater diversity of housing types and non-residential uses are allowed in this district.
- 5.) Business (B-1) – The B-1 District includes the primary commercial corridor in the Town of Hanover along Routes 5 and 20, and is intended to promote retail and service uses for the uses of residents and visitors. Although a large diversity of uses are allowed, the Town wishes to protect and enhance the community by encouraging aesthetically appealing, orderly development.

- 6.) Light Industry (I) – The purpose of this light industry classification is to provide space for a new and expanding non-noxious industry in such a way as to protect nearby residential and commercial uses.
- 7.) Wind Overlay – The Wind Overlay District delineates those areas of the Town of Hanover where Wind Energy Conversion Systems (WECS) are permitted.

### **Forestville Hamlet Districts**

- 1.) Agriculture (A-2) – The A-2 District is established to promote maintenance of agricultural lands as well as to allow large lot residential development. The providing of municipal sewerage or water systems is not recommended nor encouraged.
- 2.) Single-Family Residential (R-4) – The R-4 District is established to provide for the development of residential neighborhoods occupied primarily by single-family residences. No building or other structure or land shall be used and no building or other structure shall be built or altered for any purpose not listed under this section.
- 3.) Residential (R-5) – The R-5 District is established to provide for the development of residential neighborhoods occupied by a variety of types of residential structures *and to encourage and protect the historic character of the neighborhoods and their streetscapes.*
- 4.) Business (B-2) – The B-2 District encompasses the Hamlet of Forestville commercial district. It is established as a mixed–use district to maintain the unique historic qualities of the hamlet’s traditional Main Street core with residential transition areas. The district is designed to allow flexibility in development options while protecting the character of the hamlet.

### **§ 202 – ZONING MAP.**

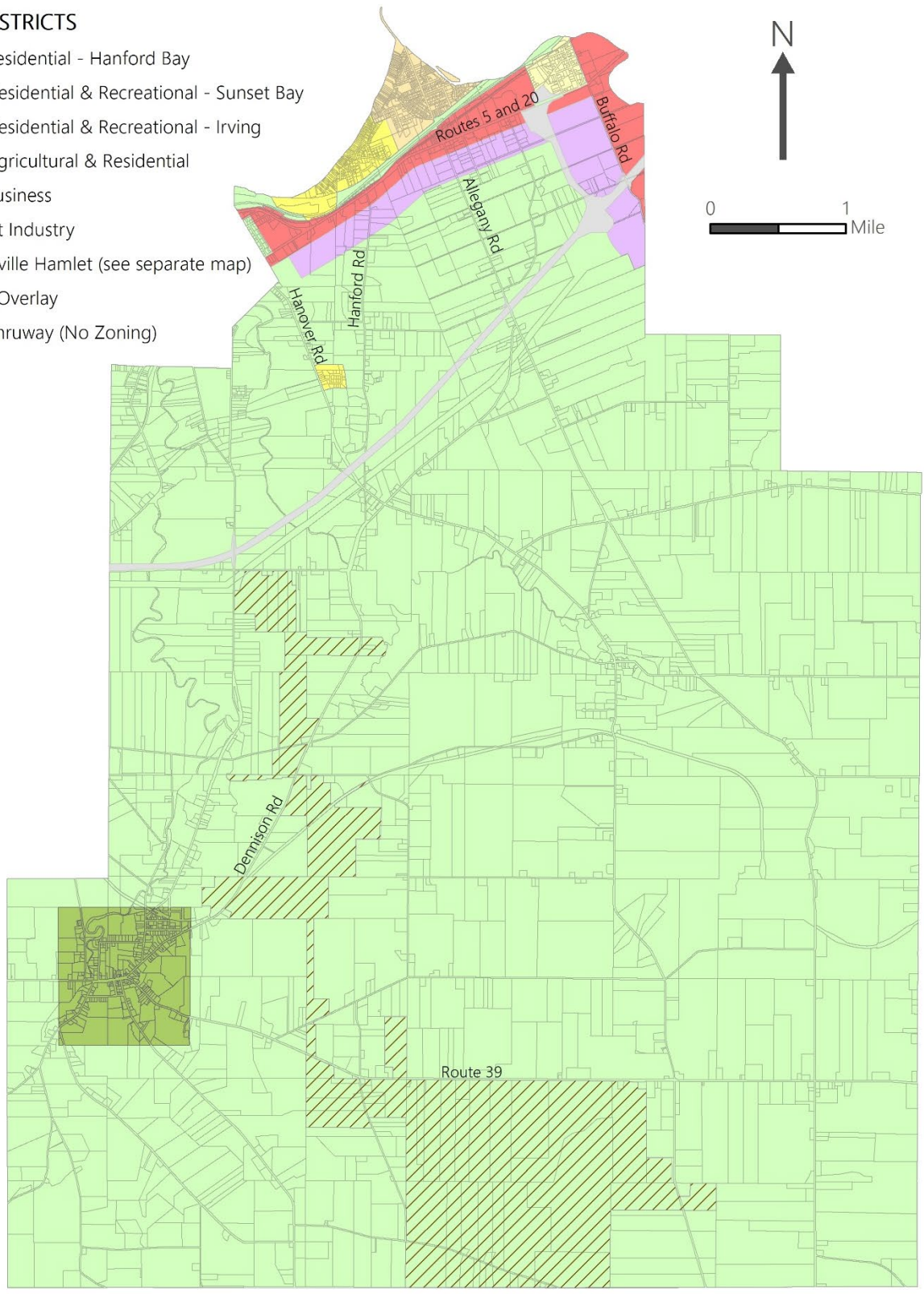
The boundaries of the zoning districts listed in § 201 of this chapter are hereby established and shown on the maps entitled, “*Zoning District Map of the Town of Hanover, New York, dated December 14, 2020*” and “*Zoning District Map of the Town of Hanover, New York, Hamlet of Forestville, dated December 14, 2020*”, which maps accompany and are made a part of this Local Law. The referenced zoning maps shall have the same force and effect as if the zoning maps, together with all notations, references, and other information shown thereon, were fully set forth and described herein.

# Zoning District Map of the Town of Hanover, New York

dated December 14, 2020

## ZONING DISTRICTS

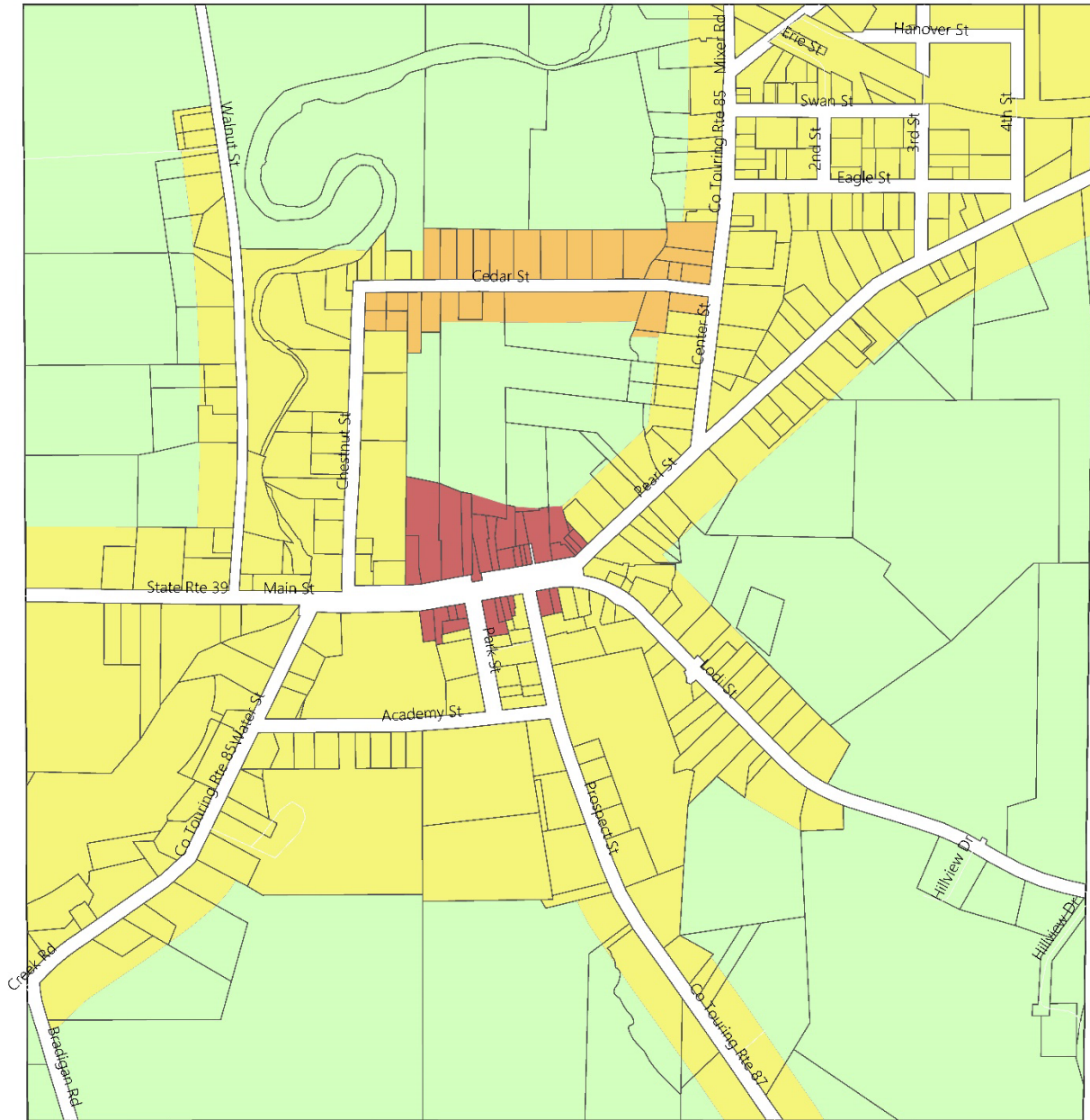
- R-1 Residential - Hanford Bay
- R-2 Residential & Recreational - Sunset Bay
- R-3 Residential & Recreational - Irving
- A-1 Agricultural & Residential
- B-1 Business
- I Light Industry
- Forestville Hamlet (see separate map)
- Wind Overlay
- NYS Thruway (No Zoning)



Map created by the  
 Chautauque County Department of Planning and Development  
 December 2020  
 Data Source: Chautauque County GIS

# Zoning District Map of the Town of Hanover, New York Hamlet of Forestville

dated December 14, 2020



## ZONING DISTRICTS

- A-2 Agriculture
- R-4 Single-Family Residential
- R-5 Residential
- B-2 Business



Map created by the  
Chautauqua County Department of Planning and Development  
December 2020  
Data Source: Chautauqua County GIS

## **§ 203 – INTERPRETATION OF DISTRICT BOUNDARIES.**

When uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following shall apply:

- A.** Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, or public utility easements, said boundaries shall be construed to be coincident with such lines. Said boundaries shall be deemed to be automatically moved if a centerline or right-of-way line of such street, highway, railroad or public utility easement is moved.
- B.** In areas not subdivided in to lots and blocks, where district boundaries are so indicated that they are approximately parallel to the centerline or right-of-way lines of streets, highways, railroads, or public utility easements, said boundaries shall be construed as being parallel thereto and at such distances therefrom as are indicated on the Zoning Map measured at right angles from the center line of the highway, railroad,, or public utility easement.
- C.** Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such line or projections thereof.
- D.** Where district boundaries are indicated as approximately following streams, said boundaries shall be construed to be coincident with the centerlines of the main channels of such streams, and said boundaries shall be deemed to be automatically moved if the main channels of such streams are moved by natural or artificial means no more than 50 feet.
- E.** Where a lot held in one (1) ownership and of record at the effective date of this Law is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district, provided that this determination shall not apply if it increases the less restricted portion of the lot by more than twenty-five (25) feet.

## **§ 204 – ZONING OF STREETS, ALLEYS, PUBLIC WAYS, WATERWAYS AND RIGHTS OF WAY.**

All streets, alleys, public ways, waterways, and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, waterways, or railroad right of way. Where the centerline of a street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed the same as that of the abutting property up to such centerline.



## ARTICLE III – DISTRICT REGULATIONS

### **§ 301 – USES PERMITTED – HANOVER (OUTSIDE FORESTVILLE HAMLET).**

- A.** The following table (Table 301) establishes the uses permitted by special use permit, site plan review and by right within the Town of Hanover Zoning Districts outside of the boundaries of the Hamlet of Forestville. All uses are subject to the general provisions or supplemental regulations contained within this Law. General provisions and supplemental regulations applicable to uses in all zoning districts are given in Article V and Article VI of this Law.
- B.** No lot, building or premise shall be erected, altered or used that does not comply with one or more of the uses designated in the following table for each zoning district.
- C.** Uses not included in the use table shall be considered prohibited. If a use is not specifically indicated as permitted by right, by site plan review or by special use permit in a district, it shall be considered prohibited in that district, unless it is determined in a written decision by the Zoning Board of Appeals after proper application, that such a use is similar to permitted uses, and not inherently a nuisance, menace or danger to health, safety or welfare of the residents of the Town of Hanover.
- D.** Acronyms in the following table have these meanings:
  - 1.) R – Designates a use permitted by right. A building permit may be required and may be required to comply with associated supplemental regulations or general provisions for specific uses in Article V and Article VI of this Law.
  - 2.) S – Designates a use subject to approval by special use permit.
  - 3.) SPR – Designates a use subject to approval by site plan review.



Table 301 - Uses Permitted in the Town of Hanover (Outside the Hamlet of Forestville)							
USE TYPE	Refer to §	A-1	R-1	R-2	R-3	B-1	I
<b>RESIDENTIAL USES</b>							
One-family Detached Dwelling		R	R	R	R		R
Two-family Dwelling		S			R		R
Multi-family Dwelling		S					R
Manufactured Home Park	605	S				S / SPR	R
Manufactured Homes	605	R	R	R	R		R
<b>AGRICULTURAL USES</b>							
Agriculture		R					R
Forestry		R					R
Fur-bearing Animal Farms		S					R
Greenhouse/Wholesale Growers						S / SPR	R
Roadside Stand, Temporary/Limited		R					R
Sawmill		S					R
Stable/Livery		S					R
<b>BUSINESS RETAIL</b>							
Agricultural Implements, Sale and Service						S / SPR	R
Automobile Accessory Store						S / SPR	R
Automobile Sales and Service	606				S	S / SPR	R
Bakery						R / SPR	R
Boat Showrooms						S / SPR	R
Book/Stationary Store						R / SPR	R
Building Materials or Hardware Store						S / SPR	R
Candy Shop/Ice Cream Shop						R / SPR	R
China/Glassware Store						R / SPR	R
Department Store						R / SPR	R
Drugstore						R / SPR	R
Feed and Seed Store, Wholesale						R / SPR	R
Florist Shop or Conservatory (on premise sales only)						R / SPR	R
Frozen Food Store						R / SPR	R
Furniture Store						R / SPR	R
Garden Supply and Seed Storage						S / SPR	R
Grocery/Convenience Store						R / SPR	R
Household Appliance Store or Repair Shop						R / SPR	R
Interior Decorating Shops						R / SPR	R
Jewelry Store						R / SPR	R
Leather Goods/Luggage Store						R / SPR	R
Lumber Yards					S		
Manufactured Home Sales					S		
Monument Sales (no grinding/cutting of stone)						S / SPR	R
Other Business Uses	617				S	S / SPR	R
Paint or Wallpaper Store						R / SPR	R
Plumbing or Heating or Roof Supply Shop						S / SPR	R
Sporting Goods Store						R / SPR	R
Trailer Sales, Automobile or Truck						S / SPR	R
Used Auto Parts Store						S / SPR	R



USE TYPE	Refer to §	A-1	R-1	R-2	R-3	B-1	I
<b>BUSINESS SERVICE</b>							
Auto Repair Garage, Major/Minor	606				S		
Automobile Motor Repair and Service Shop	606				S	S / SPR	R
Automobile Service Station	606				S		
Bank/Financial Institution						R / SPR	R
Barber/Beauty Parlor and Similar Personal Service						R / SPR	R
Building Contractor Office or Shop						R / SPR	R
Car Wash					S	S / SPR	R
Dog Kennel		S					R
Electrical Appliance Store or Repair Shop						R / SPR	R
Hospital/Sanitarium		S					R
Laundromat/Dry Cleaner						R / SPR	R
Live Bait Store						R / SPR	R
Medical Clinic						R / SPR	R
Motel						S / SPR	R
Other Business Uses (see definition)					S	S / SPR	R
Photography Studio						R / SPR	R
Professional Office/Office Building						R / SPR	R
Rest Home/Nursing Home/Institution for the Aged		S					R
Restaurant/Tavern						R / SPR	R
Restaurant/Tea Room/Café (no drive-in)						R / SPR	R
Shoe and Hat Store or Repair						R / SPR	R
Storage/Warehousing/Wholesale						R / SPR	R
Veterinary Hospital or Clinic		S					R
Watch Repair						R / SPR	R
<b>MANUFACTURING &amp; INDUSTRY</b>							
Light Industry	616	S				S / SPR	R
<b>PUBLIC &amp; QUASI-PUBLIC USES</b>							
Airport/Aircraft Land Fields		S					R
Boat Liveries, Harbors, and Associated Businesses				S			
Cemetery/Crematory/Massoleum		S					R
Church/Rectory/Parish House		R	R	R	R		R
Electric Substation/Booster Station			S	S	S		
Filtration Plant/Pumping Station/Water Reservoir		S	S	S	S		R
Governmental Uses		S	S	S	S		R
Park/Forest Preserve/Public Recreation Area		R		R			R
Police or Fire Station		S	S	S	S		R
Post Office						R / SPR	R
Private Club/Lodge		S		S	S		R
Public Utility Facility		R	R	R	R		R
Public Utility Collection Office						R / SPR	R
Radio or Television Towers, Commercial		S					R
Railroad Right-of-Way and Tracks		S					R
Recreational Membership Club			S				

USE TYPE	Refer to §	A-1	R-1	R-2	R-3	B-1	I	
<b>PUBLIC &amp; QUASI-PUBLIC USES (cont.)</b>								
Schools, Elementary or High, inc. Fields/Play Areas		R	R	R	R		R	
Schools, Day or Nursery, Public or Private				S	S			
Seminary/Convent/Monastery and Similar		R					R	
Sewage Treatment Plant		S	S	S	S		R	
Telephone Exchange			S	S	S			
<b>RECREATION &amp; ENTERTAINMENT</b>								
Amusement Establishments, Indoor (see definition)					S	S / SPR	R	
Amusement Establishments, Outdoor (see definition)					S	S / SPR	R	
Bowling Alley					S	S / SPR	R	
Camp, Private	615	S					R	
Dance Hall					S	S / SPR	R	
Golf Course/Driving Range		R					R	
Gun Club		S					R	
Miniature Golf Course		R					R	
Pool Hall					S	S / SPR	R	
Skating Rink					S	S / SPR	R	
Theater, Indoor						R / SPR	R	
Theater, Outdoor Drive-In		S				S / SPR	R	
<b>MISCELLANEOUS</b>								
Adult Entertainment Facilities	603						S	
Accessory Use		R		R	R		R	
Customary Accessory Use or Building			R					
Home Occupations/Businesses	612	R		R	R		R	
Filling Holes/Pits/Lowlands (see definition)		S		S	S		R	
Parking, Private Off-street		R	R	R	R	R / SPR	R	
Quarries/Gravel Pits/Sand Pits (see definition)	614	S					R	
Signs	503	R	R	R	R	R	R	
Solar Energy System	610	S / SPR				S / SPR*	S / SPR	
Temporary Construction Buildings				R	R			
Wind Energy Conversion System (WECS)	607	S (only in Wind Overlay District)						
Wind Energy Conversion System (WECS), Small	607	S						
*Only on the south side of Routes 5 and 20								

## **§ 302 – USES PERMITTED – WITHIN HAMLET OF FORESTVILLE.**

- A.** The following table (Table 302) establishes the uses permitted by special use permit, site plan review and by right within the Town of Hanover Zoning Districts within the boundaries of the Hamlet of Forestville. All uses are subject to the general provisions or supplemental regulations contained within this Law. General provisions and supplemental regulations applicable to uses in all zoning districts are given in Article V and Article VI of this Law.
  
- B.** No lot, building or premise shall be erected, altered or used that does not comply with one or more of the uses designated in the following table for each zoning district.
  
- C.** Uses not included in the use table shall be considered prohibited. If a use is not specifically indicated as permitted by right, by site plan review or by special use permit in a district, it shall be considered prohibited in that district, unless it is determined in a written decision by the Zoning Board of Appeals after proper application, that such a use is similar to permitted uses, and not inherently a nuisance, menace or danger to health, safety or welfare of the residents of the Town of Hanover.
  
- D.** Acronyms in the following table have these meanings:
  - a. R – Designates a use permitted by right. A building permit may be required and may be required to comply with associated supplemental regulations or general provisions for specific uses in Article V and Article VI of this Law.
  
  - b. S – Designates a use subject to approval by special use permit.
  
  - c. SPR – Designates a use subject to approval by site plan review.

Table 302 - Uses Permitted in the Town of Hanover within the Hamlet of Forestville					
USE TYPE	Refer to §	B-2	R-4	R-5	A-2
<b>RESIDENTIAL USES</b>					
Single Family Dwelling-Detached		R / SPR	R	R	R
Two-Family Dwelling				S	R
Three-Family Dwelling				S / SPR	S / SPR
Manufactured Homes	605	R / SPR	R	R	R
Accessory Apartment		R / SPR		R	R
Cluster Residential			S	S	S
<b>RESIDENTIAL ACCESSORY USES</b>					
Customary Accessory Use		R / SPR	R	R	R
Fences/Walls	509	R / SPR	R	R	R
Garage - Accessory - Private	502	R / SPR	R	R	R
Nursery/Greenhouse - Private				R	R
Open Porch/Deck		R / SPR	R	R	R
Outdoor Storage - Recreational Vehicle		S / SPR	R	R	R
Parking - Private, Off Road		R / SPR	R	R	R
Swimming Pool - Private		R / SPR		R	R
Tennis Court - Private			S	S	S
Trash Storage	507	R	R	R	R
<b>RESIDENTIAL COMMERCIAL USES</b>					
Bed and Breakfast		S / SPR	S	S	S
Group Home				R	
Home Business	612				
Home Occupation, Minor	612	R / SPR	R	R	R
Home Occupation, Major	612	S / SPR	S	S	S
Household Sale/Garage Sale		R	R	R	R
Manufactured Home Park	605				
<b>AGRICULTURAL COMMERCIAL USES</b>					
Agriculture - Limited			R	R	R
Agriculture					R
Blacksmith Shop					R
Farm Animals (Non-commercial)					R
Farm Operation					R
Forestry					R
Fur-bearing Animal Farms					S
Greenhouse/Wholesale Growers					S
Nursery (Plants)					R
Roadside Stand - General					S
Roadside Stand - Limited			S	R	R
Sawmill					S
Stable/Livery					S
<b>BUSINESS RETAIL</b>					
Agricultural Implements, Sale and Service					R
Appliance Store		S / SPR			S
Bakery/Confectionary/Ice Cream		R / SPR			S
Building Materials/Hardware Store		S / SPR			S

USE TYPE	Refer to §	B-2	R-4	R-5	A-2
<b>BUSINESS RETAIL (cont.)</b>					
Book/Stationary Store		S / SPR			
Brew Pub/Micro Brewery/Distillery		S / SPR			S
Department Store (Limit 5,000 sq. ft.)		S / SPR			S
Drugstore (Limit 5,000 sq. ft.)		S / SPR			
Feed & Seed Shop - Wholesale		S / SPR			R
Florist Shop		R / SPR		S	S
Furniture Store (Limit 4,000 sq. ft.)		S / SPR			S
Grocery Store		S / SPR		S	S
Convenience Store		R / SPR			
Monument Sales		R / SPR			S
Plumbing/Heating Store		R / SPR			S
Shoe and Hat Store or Repair		S / SPR			
General Retail		S / SPR			S
<b>BUSINESS SERVICE</b>					
Animal Shelter					R
Auto Repair Garage, Minor		S / SPR			S
Automobile Service Station					S
Bank/Financial Institution		R / SPR			S
Bar (No Live Entertainment)		R / SPR			S
Barber/Beauty Parlor and Similar Personal Service		R / SPR		S	S
Building Contractor Office or Shop		R / SPR			S
Car Wash		S / SPR			R
Dog Kennel					S
General Service		S / SPR			
Hospital/Sanitarium		S / SPR		S	
Hotel/Motel		S / SPR			S
Laundromat/Dry Cleaner		S / SPR			S
Live Entertainment		S / SPR			
Mortuary/Funeral Parlor		S / SPR		S	S
Rest Home/Nursing Home/Institution for the Aged		S / SPR		S	
Photography Studio		R / SPR		S	S
Professional Office/Office Building		R / SPR		S	S
Restaurants/Tea Rooms/Café (no drive-in)		R / SPR			
Restaurant/Taverns		R / SPR			S
Veterinary Hospital or Clinic		S / SPR			R
Wholesale					S
<b>MANUFACTURING &amp; INDUSTRY</b>					
Food or Beverage Manufacturing					S
Light Industry					S
Research Lab					S

USE TYPE	Refer to §	B-2	R-4	R-5	A-2
<b>PUBLIC &amp; QUASI-PUBLIC USES</b>					
Airport/Aircraft Land Fields					S
Cemetery/Crematory/Massoleum					S
Church/Rectory/Parish House		R / SPR	S	R	R
Community Center		S / SPR			S
Daycare Center - Adults or Children		S / SPR		S	S
Fraternal Facility/Club		S / SPR		S	S
Large Group Gathering	611	S / SPR			S
Library		S / SPR	S	S	S
Lodge or Club - Private		S / SPR			
Museum/Gallery		S / SPR	S	S	S
Park/Forest Preserve/Recreation Area		R / SPR	R	R	R
Police or Fire Station					S
Radio or Television Tower - Commercial		S / SPR		S	R/S
Tennis Court - Public		R / SPR	S	S	R
<b>RECREATION &amp; ENTERTAINMENT</b>					
Commercial Recreation		S / SPR			S
Golf Course/Driving Range					S
Swimming Facility		S / SPR		S	R
Theater - Indoor		S / SPR			
<b>CONSERVATION</b>					
Forestry/Lumbering/Reforestation					R
<b>MISCELLANEOUS</b>					
Junk or Scrap Yard					S
Heavy Vehicle Parking					R
Parking, Private Off-street	507	R / SPR	R	R	R
Quarries/Gravel Pits/Sand Pits (see definition)					S
Recreational Vehicle	602				
Signs		R	R	R	R
Solar Energy System	610				
Wind Energy Conversion System (WECS)	607				
Wind Energy Conversion System (WECS), Small	607				S

## **ARTICLE IV: DENSITY & DIMENSIONAL STANDARDS**

### **§ 401 – PURPOSE.**

The following tables and text are hereby adopted and incorporated into this Law in order to provide adequate open space for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on streets, and to meet the other purposes established in this Local Law pursuant to Article I. No building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

### **§ 402 – DENSITY AND DIMENSIONAL STANDARDS.**

See area Table 402 on the following pages.



**Table 402 - Town of Hanover Zoning District Area Standards**

District / Type of Use		Minimum Lot Size (sq. ft.)	Max. Lot Coverage	Min. Lot Width (feet)	Setbacks (feet)			Structure	
					Front yard	Side Yards	Rear Yard	Min. Floor Space (sq. ft.)	Max. Bldg. Height (feet)
<b>A-1</b>	<b>Agricultural and Residential</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family (NS) (Primary Use)	87,120	-----	150	50	15	35	1 Floor = 850, Over 1 Floor =1,000	-----
	Single-Family (S or W) (Primary Use)	43,560	-----	100	50	15	35	1 Floor = 850, Over 1 Floor =1,000	-----
	Single-Family (S & W) (Primary Use)	21,780	-----	100	50	15	35	1 Floor = 850, Over 1 Floor =1,000	-----
	Non-residential (Primary Use)	87,120	-----	-----	50	15	35	1 Floor = 850, Over 1 Floor =1,000	-----
	Accessory Use	See Above	40 % of Rear Yard	-----	-----	5	5	-----	15
<b>A-2</b>	<b>Agriculture - Forestville</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family (NS) (Primary Use)	50,000	40%	200	65	45	70	1,000	2.5
	Single-Family (S or W) (Primary Use)	30,000	40%	100	45	25	50	1,000	2.5
	Single-Family (S & W) (Primary Use)	30,000	40%	100	45	25	50	1,000	2.5
	Multi-Family (NS) (Primary Use)	40,000	40%	200	85	50	75	900/unit	2.5
	Multi-Family (S or W) (Primary Use)	20,000	40%	100	85	50	75	900/unit	2.5
	Multi-Family (S & W) (Primary Use)	20,000	40%	100	85	50	75	900/unit	2.5
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15



District / Type of Use		Minimum Lot Size (sq. ft.)	Max. Lot Coverage	Min. Lot Width (feet)	Setbacks (feet)			Structure	
					Front yard	Side Yards	Rear Yard	Min. Floor Space (sq. ft.)	Max. Bldg. Height (feet)
R-1	<b>Residential - Hanford Bay</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Special Use (S or W)	15,000	-----	-----	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S or W) (Primary Use)	6,500	-----	65	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S & W) (Primary Use)	6,000	-----	60	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S & W) North of Rail - Existing Prior to 3/1983	4,000	-----	40	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	12
R-2	<b>Residential &amp; Recreational - Sunset Bay</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Special Use (S or W)	15,000 min. - final min. size determined by ZBA	-----	-----	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S or W) (Primary Use)	6,500	-----	65	25	5	-----	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S & W) (Primary Use)	6,000	-----	60	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S & W) North of Rail - Existing Prior to 3/1983	4,000	-----	40	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Non-Residential	43,560	-----	120	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15

District / Type of Use		Minimum Lot Size (sq. ft.)	Max. Lot Coverage	Min. Lot Width (feet)	Setbacks (feet)			Structure	
					Front yard	Side Yards	Rear Yard	Min. Floor Space (sq. ft.)	Max. Bldg. Height (feet)
R-3	<b>Residential &amp; Recreational - Irving</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family (S or W) (Primary Use)	6,500	-----	65	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Single-Family (S & W) (Primary Use)	6,000	-----	60	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Non-Residential	43,560	-----	120	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Special Use (S or W)	15,000 min. - final min. size determined by ZBA	-----	-----	25	5	35	1 Floor = 850, Over 1 Floor =1,000	30
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15
R-4	<b>Single Family - Forestville</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water			*from edge of road				
	Single-Family (NS)	40,000	35%	120	35	20	40	1,000	3
	Single-Family (S or W)	15,000	35%	100	20	10	25	1,000	3
	Single-Family (S & W)	12,000	35%	100	20	10	25	1,000	3
	Two-Family (NS)	40,000	40%	130	35	30	45	900 / unit	3
	Two-Family (S or W)	15,000	40%	110	20	15	30	900 / unit	3
	Two-Family (S & W)	8,000	40%	110	20	15	30	900 / unit	3
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15

District / Type of Use		Minimum Lot Size (sq. ft.)	Max. Lot Coverage	Min. Lot Width (feet)	Setbacks (feet)			Structure	
					Front yard	Side Yards	Rear Yard	Min. Floor Space (sq. ft.)	Max. Bldg. Height (feet)
<b>R-5</b>	<b>Residential - Forestville</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family (NS)	40,000	35%	120	35	20	40	1,000	3
	Single-Family (S or W)	15,000	35%	100	20	10	25	1,000	3
	Single-Family (S & W)	12,000	35%	100	20	10	25	1,000	3
	Two-Family (NS)	40,000	40%	130	35	30	45	900 / unit	3
	Two-Family (S or W)	15,000	40%	110	20	15	30	900 / unit	3
	Two-Family (S & W)	8,000	40%	110	20	15	30	900 / unit	3
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15
<b>B-1</b>	<b>Business</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Business - Side yard abuts residential district	43,560	-----	100	50	15	35	-----	40
	Business - Side yard abuts federal, state or county highway	43,560	-----	100	50	60	35	-----	40
	Business - Side yard abuts town road or public street	43,560	-----	100	50	15	35	-----	40
	Business - Side yard abuts flood plain district	43,560	-----	100	50	15	35	-----	40
	Business - Lot prior to 1/1/1971 by Special Use Permit	21,500 min. - final min. size determined by ZBA	-----	100	50	See Above	35	-----	40
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15

District / Type of Use		Minimum Lot Size (sq. ft.)	Max. Lot Coverage	Min. Lot Width (feet)	Setbacks (feet)			Structure	
					Front yard	Side Yards	Rear Yard	Min. Floor Space (sq. ft.)	Max. Bldg. Height (feet)
B-2	<b>Business - Forestville</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family, New Construction (NS)	40,000	35%	120	35	20	40	1,000	3
	Single-Family, New Construction (S or W)	15,000	35%	100	20	10	25	1,000	3
	Single-Family, New Construction (S & W)	12,000	35%	100	20	10	25	1,000	3
	Two-Family, New Construction (NS)	40,000	40%	130	35	30	45	900 / unit	3
	Two-Family, New Construction (S or W)	15,000	40%	110	20	15	30	900 / unit	3
	Two-Family, New Construction (S & W)	8,000	40%	110	20	15	30	900 / unit	3
	All Other Uses (NS)	40,000	60%	120	10	10	20	---	3
	All Other Uses (S or W)	15,000	60%	90	10	10	15	---	3
	All Other Uses (S & W)	12,000	60%	90	10	10	15	---	3
	Accessory Use	See Above	40% of Rear Yard	-----	-----	5	5	-----	15
I	<b>Light Industrial</b>	(NS) = No Sewer or Water (S or W) = Sewer or Water (S & W) = Sewer & Water							
	Single-Family (S or W) (Primary Use)	6,500	65	-----	-----	-----	-----	-----	-----
	Single-Family (S & W) (Primary Use)	6,000	60	-----	-----	-----	-----	-----	-----
	Non-Residential	-----	-----	-----	-----	-----	-----	-----	-----

## § 403 – LOT COVERAGE.

- A. Maintenance of Yards, Courts and Other Open Spaces** – The maintenance of yards, courts, and other spaces and minimum lot area legally required for a building shall be continuing obligation of the owners of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, other open spaces or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason be used to satisfy yard, court, other open space, or minimum lot requirements for any other building.
- B. Location Of Required Open Space** – All yards, courts, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
- C. Required Yards For Existing Buildings** – No yards now or hereafter provided for a building existing on the effective date of this Ordinance shall subsequently be reduced below, or further reduced below if already less than the minimum yard requirement of this law for equivalent new construction.
- D. Permitted Obstructions In Required Yards** – The following shall not be considered to be obstructions when located in the required yards, specified:

- 1.) In All Yards – Open terraces not over four feet above the ground by not including a permanently roofed-over terrace or porch; awnings and canopies; steps, four feet or less above grade, which are necessary for access to a permitted building, or for access to a zoning into the yard; recreational and laundry-drying equipment; arbors and trellises and flag poles.

Open mesh fencing and privacy fences having a height of six feet or less may be used to locate property lines within the required side or rear yards. Fences, walls or lattice-work screens which form outside living rooms, or provide necessary privacy for swimming pools or other activities, and are actual projections from the bearing walls of existing dwellings, may be extended into either the side or the rear yard but not both yards where the fence, wall or screen has not less than fifty percent of the surface open or is a vertical type of louvered fence, which can prevent free movement of air from one or more directions and yet have more than fifty percent of its surface open when viewed on an angle from two directions, provided however:

- a.) That the projection shall not prohibit the erection of an open mesh type fence or commonly used privacy fencing over six feet in height enclosing an elementary or high school site, and

b.) That this projection shall not limit the height, type or location of a fence, wall or other structures which are located within buildable area exclusive of the side or rear yards of the property.

c.) Finished side of the fence shall face the adjacent property.

2.) In Front Yards – One-story bay windows projecting three feet (or less) into the yard; and overhanging eaves and gutters projecting three feet (or less) into the yard. Open mesh fencing, commonly used privacy fencing, shall be no closer than fifteen (15) feet from the edge of the nearest right of way, or in line with the street facing the front of the residential structure on the lot to be fenced, whichever is greater.

3.) In Rear Yards – Enclosed, attached or detached off-street parking spaces; necessary sheds, tool rooms, and similar buildings or structures for domestic or agricultural storage, balconies; breezeways and open porches; one-story bay windows projecting three feet (3') or less into the yard; overhanging eaves and gutters projecting three feet (3') or less into the yard. No accessory building shall be nearer than ten feet (10') to any principal building unless attached.

4.) No part of any building shall be closer than five feet (5') from the property line, nor shall it be closer than ten feet (10') from the primary structure on the adjacent lot thereto.

## § 404 – LOT AREA AND DIMENSIONS.

**A. Contiguous Parcels** – When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the Use District in which they are located, are contiguous and are held by one (1) zoning lot for such use, only if the two (2) said lots are contained in one instrument of conveyance (e.g. deed). In the event that the two parcels are not on one (1) deed, the owner of said parcels must come before the planning board for approval to be treated as one (1) zoning lot.

**B. Lots or Parcels of Land of Record** – Any single lot or parcel, which was of record at the time of the adoption of this Local Law that does not meet the requirement for minimum lot size, width, and area, may be utilized for a permitted use, provided that yards, courts, or usable open spaces are not less than seventy-five percent (75%) of the minimum required area dimensions then currently in effect.

## § 405 – HEIGHT OF BUILDINGS.

**A.** The height limitation of this Law shall not apply to church spires, belfries, cupolas, silos, penthouses (equipment building on flat roof), and domes, not used for human

occupancy; nor to chimneys, ventilators, skylights, windmills, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20% of the ground floor area of the building.

## **§ 406 – EXISTING SUBSTANDARD SIZED LOTS.**

Any single lot or parcel, which was of record at the time of the adoption of this Local Law that does not meet the applicable minimum area requirements may be utilized for a permitted use, provided the following conditions are met:

- A. Yards, courts, or usable open spaces are not less than seventy-five percent (75%) of the applicable minimum area requirements at the time of enactment of this Law.
- B. The substandard lot was not contiguous to another lot in the same ownership at the time of enactment of this Law (see § 404)
- C. If there are no municipal utilities available, the County Health Department must first approve the lot as being adequate for a new proposed use.
- D. If A cannot be met but C has been accomplished, then the applicant can request an Area Variance from the Zoning Board of Appeals (see Article XII)

## **§ 407 – ESTABLISHED FRONT YARDS.**

In an existing neighborhood where structures are not set back from the edge of the road and the distance specified by this Law, it shall be determined by the Enforcement Officer what appropriate setback will be permitted by new construction or by alterations to existing structures in order to aesthetically blend with existing adjacent structures. The varied setback will be based on the average of the setbacks of the two (2) adjacent structures minus up to 5-feet. Any variation requested which is in greater variation than that permitted by this rule will require an Area Variance.

## **§ 408 – NUMBER OF RESIDENTIAL DWELLINGS ON A LOT (LOT DIVISION)**

- A. **Number of Residential Dwellings on a Lot** – No more than one (1) principal detached residential dwelling shall be constructed on a lot, nor shall a principal detached residential building be located on the same zoning lot with any other principal building.

**B. Division of Lots** – No lot improved with a building or buildings shall hereafter be divided into two (2) or more zoning lots and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each such division or sale and improved with a building or buildings shall not be less conforming to all the bulk regulations of the zoning district in which the property is located. However, any portion of a parcel may be removed if it is to be used with an adjacent parcel and the original parcel continues to conform to the bulk regulations.

## **§ 409 – SETBACKS FROM STATE HIGHWAYS.**

In all Zoning Districts, all buildings, structures and other improvements shall have a minimum set back of thirty five (35) feet from the boundary of any New York State Highway right-of-way.

## **§ 410 – DISPUTED LOT LINES.**

**A. Purpose** – It is the intent of this section to clarify the procedures to be followed in verifying where lot lines are in order to insure that area requirements (side yards, etc.) are met.

**B. Procedures** – When the Enforcement Officer is in doubt as to the location of lot lines and it is apparent that new development may not be in accordance with area requirements, the Enforcement Officer shall withhold the granting of the Zoning Permit until one of the following occurs:

- 1.) Applicant provides a recent survey prepared by a licensed New York State surveyor showing lot and improvements as of the date of the survey. Any survey prepared within one year of the application to the Town shall be deemed recent, unless there have been changes to physical structures which have a bearing on the determination to be made.
- 2.) Grant Zoning Permit after the applicant receives an Area Variance from the Zoning Board of Appeals.

## **§ 411 – CORNER LOTS.**

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements.

## **§ 412 – DWELLING INSTALLATION REQUIREMENTS.**

A-1, R-1, R-2, R-3 All dwellings shall be completely immobilized and placed on a permanent foundation or included footer below the frost line, with a masonry or poured concrete curtain, engineered concrete panel skirting, which curtain or skirting shall be a minimum of six



inches (6") thick or eight inches (8") thick if load bearing. In lieu of a curtain wall engineered masonry panels may be substituted, when installed to manufacturer's specifications. In areas adjacent to Lake Erie, and Cattaraugus Creek, where there is known and identified Flood Hazard Area in Sunset Bay, Hanford Bay, and the Hamlet of Irving, frost protected, open pier, flow-thru construction may be utilized without a curtain wall. If such curtain is load bearing, appropriate support beams must be installed. If such curtain is cosmetic in nature only, appropriate support piers must be installed. All installation must be in accordance with the provisions of this zoning law and the New York State Uniform Fire and Building Code. No floor area shall be below five hundred eighty-three (583) feet USGS. Manufactured homes shall comply with requirements of this section.

### **§ 413 – EXCEPTION-HAMLET OF IRVING.**

Front Yard: No building or structure hereafter erected shall be placed closer than thirty feet (30') from the edge of any public street, road or highway upon which the subject property abuts. No building or structure hereafter erected shall have a first floor elevation of less than 589.0 NGVD 29.



# ARTICLE V – REGULATIONS FOR ALL DISTRICTS

## § 501 – ACCESS TO PUBLIC STREET.

Except as otherwise provided for in this Law every building shall be constructed or erected upon a lot, or parcel of land, which abuts a public street.

## § 502 – ACCESSORY BUILDING.

- A. **Exception** – Building permits will not be required for any accessory building that has an area of less than one-hundred square feet (100'), not to exceed 12 feet (12') in height. However, these buildings must conform to all yard setback and percentage of lot provisions, as applicable, in this Law.
- B. **Location** – No part of any accessory building shall be located closer than five feet (5') from any side or rear property line, nor closer than ten feet (10') to any main building, unless attached and a part of such main building.
- C. **Time of Construction** – No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- D. **Percentage Of Required Rear Yard Occupied** – No accessory building or buildings shall occupy more than forty percent (40%) of the area of a required rear yard.
- E. **Height Of Accessory Buildings In Required Rear Yards** – No accessory building or portion thereof located in an required rear yard shall exceed fifteen feet (15') in height.
- F. **On Reversed Corner Lots** – On a reversed corner lot in a Residence district, and within fifteen feet (15') of any adjacent property to the rear in a Residence district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than a distance equal to sixty percent (60%) of the least depth which would be required under this Law for the front yard on such adjacent property to the rear. Further, in the above instance no such accessory building shall be located within five feet (5') of any part of a rear lot line which coincides with a side lot line or portion thereof of property in a Residence District.
- G. **Accessory Building in the R-1 District** – There shall not be more than two (2) accessory buildings and one (1) principal use building on the same lot, or on lots adjacent or contiguous with one another when such lots are in a single ownership and only when such lots individually do not meet the required lot size as set down in §402 Density and Dimensional Standards, or when such contiguous or adjacent lots do not bound directly on a public street.

## § 503 – SIGNS.

### A. Sign Standards Outside the Hamlet of Forestville

- 1.) Signs that have been sited prior to August 11, 1981 and satisfy all other requirements of this section will be permitted with the following added requirements:
  - a.) No off-premise sign shall be closer than five hundred (500) feet to another sign; and
  - b.) A permit form New York State Department of Transportation has been presented to the Hanover Building Inspector.
- 2.) For integrated shopping centers in single ownership and management, or under unified control, one additional sign may be erected not exceeding one-hundred (100) square feet in area, advertising only the name and the location of the integrated shopping center.
- 3.) Such sign shall be placed so as to be entirely within the property lines of the premises upon which the sign is located and the bottom edge of such sign shall be at least six (6) feet from the bottom of the sign to the top of the road shoulder level or at least thirty (30) feet from any highway right-of-way. A sign must not obscure a drivers view of approaching, merging or intersection traffic and be mounted on unobstructing permanent standards.
- 4.) No sign shall be painted, pasted or similarly posted directly on the surface of any wall. Nor shall any sign be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in any Residential District.
- 5.) Signs, clocks or other advertising devices erected upon standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which it is located, and no part of the sign or standard shall have a total height greater than forty (40) feet above the level of the street upon which the sign faces, or above the adjoining ground level if such ground level is above the street level, nor shall the surface of any such sign exceed an area of one hundred (100) square feet.
- 6.) No illuminated sign shall be of the flashing or intermittent type, unless it is a Commercial Electronic Variable Messaging Sign and meets all of the requirements of 503(A)(12). Signs which may be in conflict with public traffic signals shall not be permitted.

- 7.) Traffic and directional signs designating entrance, exits and conditions of use of parking facilities accessory to the main use of premises may be maintained provided they are located within the property lines of the subject lot.
- 8.) Signs that have fallen or the legend obscured by time or lack of corrective maintenance shall be restored to acceptable condition and readability and compliance with all subparagraphs of this section or the entire structure removed. Removal within thirty (30) days of written notice from CEO.
- 9.) Signs that advertise products or services no longer produced nor in business shall be removed after cessation of an active business.
- 10.) All signs in the A-1 and R-1 districts shall meet the requirements for area and dimensional standards contained in Table 401 for the R-3 District.
- 11.) Billboards and off-premise signs are prohibited along all County, State, and U.S. highways.
- 11.) Political Signs
  - a.) Political signs are permitted in all zoning districts provided that they comply with the conditions and restrictions of this Local Law.
  - b.) Political signs advertising a candidate or candidates for public office shall be permitted not earlier than thirty (30) days prior to a general, state, national, local, or special election and shall be removed not later than seven (7) days after said election.
- 12.) Commercial Electronic Variable Messaging Signage (CEVMS)
  - a.) Definitions as applied to Section 503(A)
 

Commercial Electronic Variable Messaging Signage (hereinafter referred to as "CEVMS") – Signs capable of displaying words, symbols, figures, or images that can be electronically changed by remote or automatic means.

NIT – A unit of luminance in the meter-kilogram-second systems of units.

Animation – The movement of any light used in conjunction with a sign.

Sign Area – See Section 202 of the Town of Hanover Zoning Law for definition of "sign area."

Off-Premises Advertising – Advertising for a business (goods or services) not conducted on the premises.

- b.) Location Of CEVMS – CEVMS shall only be permitted in the Business District (B-1), and only within the Routes 5 & 20 commercial corridors on premises having frontage on Routes 5 & 20 in the Town of Hanover to the Village of Silver Creek boundary line.
- c.) CEVMS shall comply with the following:
- (1) Transition Methods – The transition between messages shall not exceed two (2) seconds
  - (2) Message Frequency – Each message shall show no less than ten (10) seconds
  - (3) Intensity/Brightness – All CEVMS shall be equipped with technology that automatically dims the electronic variable message displays according to ambient light conditions to a luminance of not more than 0.3 foot-candles (as measured using a foot-candle meter at 100 feet). The nighttime brightness level shall not exceed 500 NIT and the daytime brightness level shall not exceed 5000 NIT (meets FHWA Administration Guidelines).
  - (4) Animation – Animation is permitted, except letter and/or text which are scrolling, blinking, flashing or changing of any light movement are prohibited (continuously lighted is permitted)
  - (5) Orientation – CEVMS may be placed perpendicular to the street (single or double-sided)
  - (6) Setback – CEVMS must be at least ten (10) feet from the street right of way
  - (7) Height – The maximum height of a CEVMS shall not exceed one hundred (100) feet measured from ground level
  - (8) Size – The maximum size of the CEVMS shall not exceed fifty (50) square feet per side
  - (9) All CEVMS are subject to a site plan review
  - (10) Permit Fee Schedule – Applications for Commercial Electronic Variable Messaging Signage (which requires a site plan review) will be charged \$250.00
  - (11) Off-Premises advertising is prohibited, unless a permit is issued by the New York State Department of Transportation. Off-Premises advertising is not prohibited if the advertising is for a not-for-profit organization or a business, which is included within the activities of a non-for-profit organization.

## **B. Sign Standards Inside the Hamlet of Forestville**

- 1.) **Purpose** – Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this Section is to regulate all signs within the Hamlet of Forestville to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare.
- 2.) **Sign Permits and Exempt Signs** – All signs installed after the adoption date of this law are required to obtain a sign permit. The following types of signs are exempt from the requirements of this Section:
  - a.) Signs mandated by statute, law or governmental regulation.
  - b.) Holiday and seasonal decorations.
  - c.) Personal expression signs of any sign type, including flags, provided that they do not exceed three (3) sq. ft. in area per side, are non-commercial in nature, and are not illuminated.
  - d.) Private drive signs – One sign per driveway entrance, not to exceed two sq. ft. in area.
  - e.) No Trespassing signs posted in accordance with state law.
  - f.) Legal notices.
  - g.) Memorial signs, public monument or historical identification sign erected by the Town of Hanover, including plaque signs up to three sq. ft. in area.
  - h.) Signs which are a permanent architectural feature of a building or structure, existing at the time of adoption of this Zoning Law.
  - i.) Temporary signs, including banners, displayed for no more than 30 days in a six-month period.
- 3.) **Prohibited Signs**
  - a.) Non-licensed vehicles that are not actively used for business purposes or transportation and parked for use as signs. This prohibition does not include the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes and/or personal transportation. Licensed vehicles that have logos and other wording on them are not prohibited.

- b.) Signs painted, pasted or similarly posted directly on the surface of any wall. Nor shall any sign be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in any Residential (R-4, R-5 or A-2) District.
- c.) Mechanical movement signs, including revolving signs.
- d.) Pennant strings and streamers unless for a special public event and not for commercial use.
- e.) Animated signs, flashing signs, or signs that scroll or flash text, graphics of change colors.
- f.) Inflatable devices or balloon signs, with the exception of inflatable devices used in temporary, non-commercial situations.
- g.) Any signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, signals or pedestrian traffic.
- h.) Signs which emit smoke, visible vapors, particulate matter, sound, odor or contain open flames.
- i.) Signs incorporating beacon or festoon lighting.
- j.) Roof mounted signs.
- k.) Billboards and off-premise signs.
- l.) Signs attached to a public light standard, utility pole, or tree.
- m.) Signs in Residential (R-4 or R-5) Districts, except for 1. those signs listed as exempt from the requirements of this Section or 2. signs associated with a home occupation/business, provided that such signs meet the requirements of this Section and § 5XX Home Occupations / Businesses.
- n.) Internally illuminated signs

**4.) Specific Sign Regulations**

- a.) Traffic and directional signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of the premises may be maintained provide they are located within the property lines of the subject lot.
- b.) Freestanding Signs – All freestanding signs, whether ground mounted or pole mounted, shall comply with the following standards:



- (1) Only one freestanding sign, which may be double-faced, shall be permitted for the primary frontage of a property on a public street. Two freestanding signs shall be allowed on street frontage when the property is a corner lot and the property is accessed from two different streets.
- (2) The following table displays, for specific zoning districts, minimum distance from the road right-of-way for, maximum height of and maximum area of freestanding signs. Freestanding signs are prohibited in all other districts.

<u>Zoning District</u>	<u>Min. Distance from ROW (ft.)(i)</u>	<u>Max. Height (ft.)(ii)</u>	<u>Max. Area (sq. ft.)(iii)</u>
A-2	15	18	64

- i. Minimum distance from the road right-of-way shall be measured horizontally from the point on the sign or mounting structure closest to the road right-of-way.
  - ii. Maximum height shall mean the tallest point on the sign or structure and shall be measured from ground elevation immediately below the sign.
  - iii. Maximum Area shall mean the entire area, including negative spaces, within a perimeter defined by a continuous line composed of right angles which enclose the extreme limits of the sign.
- c.) Building Signs – Signs attached to a building shall comply with the following standards:
- (1) The maximum sign area, in square feet, shall be equal to the width of the building frontage (in linear feet) multiplied by one foot, but in no case shall the sign area exceed 10% of the building face area. Multiple signs are permitted, provided that total sign area does not exceed the maximum described in this subsection.
  - (2) Signs shall not project above the highest point along the face of the building.
  - (3) Signs shall not extend more than four feet from a building wall and shall have a maximum area of 15 square feet. Maximum Area shall mean the entire area, including negative spaces, within a perimeter defined by a continuous line composed of right angles which enclose the extreme limits of the sign.
  - (4) Signs projecting from buildings shall be placed so that their lowest point shall be at least eight (8) feet above ground level.

- (5) One sign not exceeding six square feet in area may be hung under a roof overhang perpendicular to each storefront or from a building.
  - (6) Traditional awning signs shall be allowed, subject to the following:
    - (a) They shall not extend beyond a point two feet inside the curbline.
    - (b) The lowest part shall not be less than eight feet above grade.
    - (c) Awnings shall be constructed of cloth or metal; however, all frames and supports shall be of metal. Every awning shall be securely attached to and supported by the building.
    - (d) Canopies shall be constructed of cloth, metal hood, or other approved materials. The framework of all canopies shall be approved by the Code Enforcement Officer.
    - (e) No advertising shall be placed on any awning or canopy, except the name of the owner and the business, industry, or pursuit conducted within the premises, and such advertising may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portions thereof.
- d.) Sign Lighting in B-2 District – The following regulations apply to the lighting of signs in the B-2 district:
- (1) The preferred method of illumination for an exterior sign is direct illumination from a shielded light source. Illumination should be concentrated on the sign with a minimum spillover of light. Lighting equipment used to illuminate an exterior sign shall not exceed a correlated color temperature greater than 2,500 Kelvin or 200 lumens per square foot of sign area. Sign lighting shall not exceed 2.0 footcandles.
  - (2) Interior lighted window signs or displays designed for pedestrian viewing are allowed; however, they must be positioned less than eight feet above the sidewalk and may not exceed six square feet.
  - (3) No signs with flashing, intermittent or moving lights are allowed.
  - (4) Modifications to preexisting signs, or the addition of new signs, which must contain a form of internal lighting, shall utilize traditional incandescent, fluorescent or light-emitting diode (LED) lamps within the lighting equipment with a maximum correlated color temperature of 2,500 Kelvin. Sign lighting shall not exceed 2.0 footcandles.

## 5.) General Sign Regulations

- a.) Pre-existing Signs – Signs put into use before the adoption date of this law are exempt from the regulations in this Section, provided they are not altered in a way that would increase any nonconformity. If it is claimed that a sign is a pre-existing sign, the person making such claim shall have the burden of proof thereof.
- b.) Signs that have fallen or the legend obscured by time or lack of corrective maintenance shall be restored to acceptable condition and readability and compliance with all subparagraphs of this section or the entire structure removed. Removal within thirty (30) days of written notice from Code Enforcement Officer.
- c.) Signs that advertise products or services no longer produced nor in business shall be removed after cessation of an active business.
- d.) Sign construction and maintenance – All signs, other than those defined as portable signs, shall be securely attached to a building or a structurally sound support, and their display surface shall be kept neatly painted or finished and in good repair at all times.
- e.) No sign shall project into the public right-of-way or be a hazard to traffic or pedestrians, obstruct any door, window, ventilating system or fire escape, or cause any other hazard to public safety.
- f.) Externally illuminated signs, including building identification signs, shall only use shielded light fixtures.
- g.) Businesses located in corner buildings are permitted to have one sign for each street frontage.
- h.) Businesses with service entrances may identify such entrances with one sign that does not exceed two square feet.
- i.) Signs, clocks or other advertising devices erected upon standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which it is located, and no part of the sign or standard shall have a total height greater than eighteen (18) feet above the level of the street upon which the sign faces, or above the adjoining ground level if such ground level is above the street level, nor shall the area of any such sign exceed sixty-four (64) square feet.

- j.) A commercial building housing multiple units is permitted only one freestanding sign that includes listings of all businesses located on the premises and each individual business shall be permitted one additional sign to be mounted on the building or windows.

## **§ 504 – OFF-STREET PARKING AND LOADING.**

The purpose of this section is to alleviate or prevent congestion of the public streets and so promote the safety and welfare of the public, by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with use to which property is put.

### **A. General Provisions – Parking And Loading**

- 1.) Procedure – An application for a building permit for a new or enlarged building, structure or use shall include therewith a plot plan, drawn to scale, and fully dimensioned showing any parking and loading facilities to be provided in compliance with requirements of this Ordinance.
- 2.) Extent of Control – The off-street parking and loading requirements of this Ordinance shall apply as follows:
  - a.) All buildings and structures erected and land uses initiated after the effective date of this Ordinance shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof, except that a building or structure for which a building permit has been issued prior to the effect date of this Ordinance shall not be required to furnish parking or loading facilities of construction is begun thereon within six (6) months of the effective date of this Ordinance and diligently prosecuted to completion;
  - b.) When a building or structure erected prior to or after the effective date of this Ordinance shall undergo any decrease in the number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Ordinance thereto, parking and loading facilities may be reduced accordingly, provided that existing parking or loading facilities shall be so decreased only when the facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Ordinance to the entire building or structure modified; and

c.) When a building or structure shall undergo any increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified, hereinafter for required parking or loading facilities, and further, when said increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this Ordinance thereto, parking and loading facilities may be increased accordingly, provided that existing parking or loading facilities shall be so increased that the facilities would at least equal or exceed the parking or loading requirements resulting from the application of the provisions of this Ordinance to the entire building or structure as modified.

**B. Existing Parking or Loading Spaces** – Accessory off-street parking and loading spaces in existence on the effective date of this Ordinance may not be reduced in number unless already exceeding the requirements of this section for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.

**C. Damage or Destruction** – Any building, structure or use which is in existence and is a conforming use on the effective date of this Ordinance and which subsequently shall be damaged or destroyed by fire, collapse, explosion or other cause may be reconstructed, re-established or repaired with or without off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, it shall not be necessary to re-store or maintain parking or loading facilities in excess of those required by this Ordinance for equivalent new construction.

**D. Design and Maintenance.**

1.) **Parking Space Description** – A required off-street parking space shall be an area of not less than one hundred sixty-two (162) square feet not less than eight and one-half (8 ½) feet wide by nineteen (19) feet long, exclusive of access drives or aisles, ramps, columns, or office and work areas, accessible from the streets or alleys or from private driveways or aisles leading to streets or alleys and to be used for the storage or parking of passenger automobiles or commercial vehicles under one and one-half (1½) ton capacity. Aisles between vehicular parking spaces shall not be less than twelve (12) feet in width when serving automobiles parked at forty-five (45) degree angle in one direction and not less than twenty (20) feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic;

2.) **Access** – Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the

movement of traffic. No driveways or curb cut in any district shall exceed twenty-five (25) feet in width; and

- 3.) Surfacing – All open off-street parking areas, excepting those accessory to a single family dwelling, shall be surface with all-weather dustless material.

#### **E. Schedule of Parking Requirements.**

- 1.) For one (1) and two-family dwellings – one (1) parking space for each family dwelling unit;
- 2.) For hotels and clubs – one (1) parking space for each four (4) guests or one (1) parking space for each sleeping room or suite, plus one additional space as shall be deemed necessary by the Building Inspector because of any supplemental parking-generative activities such as bars, ballrooms, dining rooms, night club facilities and the like;
- 3.) For tourist homes, cabins, motels- one (1) parking space for each guest or sleeping room or suite, plus one (1) additional parking space for the owner or manager of the premises;
- 4.) For private clubs or lodges (without sleeping rooms) - parking spaces equal in number to twenty-five percent (25%) of the total membership;
- 5.) For sanitariums, convalescent homes or homes for the aged- one (1) space for each six (6) patient beds, plus one (1) additional space for each staff or visiting doctor;
- 6.) For mortuaries or funeral parlors – Ten (10) parking spaces for each room used as a chapel or parlor, plus one (1) space for each funeral vehicle maintained on the premises, plus one (1) space for each family residing on premises;
- 7.) For bowling alleys – two (2) parking spaces for each alley, plus one (1) parking space for each three hundred (300) feet of floor area devoted to affiliated uses such as bars, restaurants and the like;
- 8.) For convention halls, dance halls, skating rinks, assembly halls, exhibition halls, or other places of assembly – one (1) parking space for each one hundred (100) square feet of floor area used for assembly;
- 9.) For church, high school, auditoriums – one (1) parking space for each twelve (12) seats provided in said building or structures;
- 10.) For banks, business or professional offices, or public administration buildings – one (1) parking space for each four hundred (400) square feet of floor area;

- 11.) For establishments handling the sale and consumption on the premises of alcoholic beverages, food or refreshments – one (1) parking space for each four hundred (400) square feet of floor area;
- 12.) For retail stores and service shops (individual or in groups) under one (1) roof – one (1) parking space for each one hundred (100) square feet of retail floor area; and
- 13.) For furniture and appliance shops, motor vehicle sales, wholesale stores, household equipment or furniture repair shops, machinery sales, or light industry – one (1) parking space for each two hundred (200) square feet of floor area.

**F. Off Street Loading and Unloading Facilities** – In all districts where property uses include the unloading and loading of material or merchandise from vehicles, off-street loading and unloading facilities shall be provided in accordance with the following requirements:

- 1.) For all buildings containing bowling alleys, taverns, restaurants, light industry, or any retail shops having ten thousand (10,000) to one hundred thousand (100,000) square feet of gross floor area, one (1) off-street loading and unloading space, plus one (1) additional space for each additional one hundred thousand (100,000) square feet of gross floor area or fraction thereof in excess of one hundred thousand (100,000) square feet.

## **§ 505 – VISIBILITY AT INTERSECTIONS.**

Visual obstructions at street intersections (excluding an existing building, post, public utility structure, column, or tree) between two (2') feet in height and a height of ten feet (10') above the finished grade of either street shall be prohibited within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of forty (40) feet from their point of intersection.

## **§ 506 – DRIVEWAY IN RIGHT-OF-WAY.**

When property to be developed fronts on a State, County, or Town highway and access to the highway is desired, an approved permit from the applicable highway superintendent for the development of such highway access shall be obtained prior to construction.

## **§ 507 – TRASH STORAGE – HAMLET OF FORESTVILLE ONLY.**

**A. Purpose** – It is the intent of this section to minimize safety, health, and aesthetically related problems by controlling the storage of trash in accordance with the needs of each district.

**B. Districts** – This section only applies to the A-2, R-4, R-5 and B-2 districts.

**C. Definitions** – For the purposes of this chapter, the following definitions will apply:

**Dumpster:** Any container designed for the temporary storage of trash that contains or exceeds a volume of fifty-four (54) cubic feet.

**Trash:** Glass, scrap wood, scrap metals, salvaged metals, rags, refuse, garbage, wastepaper, salvaged machines, salvaged appliances or similar materials which are prepared for disposal.

**D. Conditions for Temporary Storage of Trash**

1. **Quantity** – Trash may be temporarily stored or collected if it does not exceed limits stated in the following table. Exceeding these maximums shall require a Special Use Permit.

<b>Maximum trash volume allowed by district</b>	
<i>District</i>	<i>Max. Cubic Feet</i>
A-2	1000
B-2	150
R-4, R-5	15

2. **Origin** – Only trash originating from the parcel on which it is placed shall be allowed.
3. **Location** – Trash must be stored in one contiguous location. All spaces between buildings and structures shall be kept sufficiently free and clear of materials of every nature for the purpose of providing adequate light, air and protection against fire.
4. **Method of Storage** – In the R-4, R-5, and B-2 districts, trash may only be stored in covered containers, including trash cans, trash carts and dumpsters. In the A-2 district, trash may be stored outside of covered containers, provided that the provisions of this section are adhered to.
5. **Buffer** – Trash shall be located so as to be not visible from adjacent properties and roadways, or artificial barriers (e.g., fences, shrubs, etc.) shall be used to screen the trash.



6. Disposal – Trash shall be stored only as long as necessary and shall be disposed of in a timely manner, not to exceed 30 days.
7. Trash Pick-Up – On days when trash is picked up from residences or businesses by a weekly trash servicer, trash containers may be temporarily placed near the street for a period not to exceed twenty-four (24) hours.
8. Preexisting – These conditions shall apply to all trash existing at the time of enactment of this Law.
9. Exemptions – Farm operations, as defined by New York State Department Agriculture and Markets Law Article 25AA, are exempt from the provisions of this section.

**E. Metal Dumpsters** – All dumpsters located on a site for 30 days or more shall comply with the following regulations:

- 1.) Location – Dumpsters shall be located:
  - a.) On private property
  - b.) Outside of the front yard
  - c.) At minimum 15 feet outside of the public right-of-way
  - d.) At minimum 15 feet from any fire hydrant or other area intended for fire-fighting equipment
  - e.) If these provisions prove impossible for a property, the property owner may apply for an area variance.
- 2.) Buffers – A suitable buffer may be required by the Zoning Officer.
- 3.) Covers – Dumpsters shall be equipped with covers or lids, maintained in working order, that shelter and secure their contents. Lids shall be secured at all times except for filling and emptying.
- 4.) Emptying – Dumpsters shall be emptied of all contents once each month, at a minimum.
- 5.) Preexisting – Dumpsters existing at the time of enactment of this Law shall comply with dumpster regulations specified by the Town Board within 90 days from notification.

**F. Temporary Dumpster Permits**

1.) Location. Temporary dumpsters shall be located:

- a.) On private property
- b.) Outside of the front yard, if possible
- c.) At minimum 15 feet outside of the public right-of-way
- d.) At minimum 15 feet from any fire hydrant or other area intended for fire-fighting equipment
- e.) If these provisions prove impossible for a property, then the Zoning Officer shall determine, in coordination with the property owner and/or contractor, an alternative site

## § 508 – UNSAFE STRUCTURES.

Buildings damaged by fire, wind, or other catastrophic causes as well as structures declared to be unsafe due to general dilapidation must be restored or rebuilt or demolished and removed within six months of the catastrophic incident or notification of the unsafe condition by the Code Enforcement Officer or Fire Department.

## § 509 – FENCES.

Wherever in this Zoning Law for the Town of Hanover there is listed or recited “open mesh fencing”, it shall also be determined that commonly used “privacy fencing,” shall also be permitted.

For the purpose of protecting properties adjacent to fences and walls from indiscriminate placement, unsightliness, related health and safety problems, etc., the following rules and standards shall apply:

- A. Applicable Districts** – The following provisions shall only apply to the A-2, R-4, R-5 and B-2 Districts.
- B. Definition** – Fence shall, for the purpose of this law, include hedges and walls and is further defined in §1502.
- C. Permit Requirements** – The erection or placement of fences less than four (4) feet in height shall be exempt from all permits and fees as long as all rules and standards of this section are met. Fences four (4) feet or greater in height shall be permitted by right if all involved parties (applicant, owner of adjacent properties and Zoning Officer) as determined by the Zoning Officer are in agreement on all conditions to be applicable

in the erection of the fence. Where agreement is absent, a Special Use Permit shall be required.

- D. Agricultural Fences** – Fencing used for agricultural purposes shall conform to the regulations herein. Agricultural fences used for enclosing livestock shall be located a minimum of 100 feet from any adjacent residential area property line. Barbed wire and/or electric fences shall be considered unsafe and a threat to public health and safety and shall be prohibited. These regulations do not apply within State certified agricultural districts.
- E. Setbacks from Road** – Fences shall be set back a minimum often (10) feet from the edge of the road (street) and shall not be located within legal highway right-of-ways.
- F. Corner Setbacks** – Fences, walls, and/or hedges shall not be located so as to cut off or reduce visibility at intersections. See § 508 Visibility at Intersections.
- G. Proximity to Neighboring Properties** – All Fences, walls, and/or hedges shall be located no closer than two (2) feet from adjacent property lines. This rule can be waived if agreed to in writing by adjacent property owners, provided that a professional survey is completed to determine the location of property lines.
- H. Maximum Height** – The maximum height of all fences shall be six (6) feet.
- I. Fire Hazard** – Any fence which shall be considered a fire hazard shall be prohibited.
- J. Finished Sides** – The finished sides of all fences must face adjacent properties. This rule can be waived if agreed to in writing by adjacent property owners.
- K. Maintenance** – All fences shall be maintained structurally and visually.
- L. Preexisting Fences** – Existing fences found to be in violation of this provision shall have six months from the date of notice by the Town’s Code Office to come in compliance with the regulations herein. This regulation does not apply within State–certified agricultural districts.



# ARTICLE VI – REGULATIONS FOR SPECIFIC USES

## § 601 – GENERAL DEVELOPMENT CONDITIONS.

- A. Purposes** – Development conditions shall be attached to permits or variances when necessary or advisable to reduce or eliminate conflicts between uses or to promote the health, safety and general welfare.
- B. Area of Concern** – The following checklist shall be considered by the Planning Board and administrators in their review of request for building permits, special use permits and variances. The checklist is not intended to be all inclusive and does not limit the areas of concern over which conditions may be imposed:
- 1.) Traffic – Safety of ingress/egress from roadway, intersection visibility, level of anticipated traffic generation in relation to existing road capacity and traffic, adequacy of off-street parking and loading, pedestrian safety, and/or location of structures in relation to all of the above;
  - 2.) Safety – Trash disposal, steep slopes, open pits, toxic and/or flammable fluids;
  - 3.) Health – Sewers/water, sunlight, air movement, junk vehicles and/or trash storage;
  - 4.) Character Of Neighborhood – Development density, traffic volume, lot sizes, compatible uses, and/or buffers;
  - 5.) Public Costs – Road damage, need for new roads, and/or need for new utilities;
  - 6.) Environmental Protection – Flood plain, wetlands, and/or natural features;
  - 7.) Nuisances – Noise, odor, dust, lights, hours of operation, lot size, buffers, and/or nuisance location;
  - 8.) Land Use Preservation – Agriculture, and/or open space; and
  - 9.) Aesthetics – Restoration, appearance, scenic views, and/or buffers.
- C. Failure to Comply** – Applicants who have received variances or special use permits with conditions attached shall be responsible for continual compliance with the specified conditions. Noncompliance with any condition shall result in the revocation of the variance/special use permit and continuance of the use shall only be allowed after reapplication for the variance/special use.

## § 602 – RECREATIONAL VEHICLES.

- A. Location – Recreational vehicles are allowed in the Agricultural–Residential (A–1) District in the manner specified within this supplemental section.
- B. No recreational vehicle (pick-up, camper, travel trailer, motor home, trailer, or any other type of motor vehicle) shall be used as a temporary residence for more than ten days in any calendar year, outside of a licensed camp site.

## § 603 – ADULT ENTERTAINMENT FACILITIES.

- A. **Purpose** – It is the purpose of this Local law to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the Town of Hanover, and to establish reasonable and uniform regulations to prevent deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this law have 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 neither the intent nor effect of the Local Law to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this law to condone or legitimize the distribution of obscene materials.
- B. **Findings** – Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Town Board and on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.* 475 US 41 (1986), *Young v. American Mini-Theaters* 426 US 50 (1976), *FW/PBS, Inc. v City of Dallas* 493 US 215 (1990), *City of Erie v. Pap’s AM*, 120 Supreme Court 1382 (2000), and on studies in other communities including but not limited to: Phoenix, Arizona; Minneapolis/St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St Croix County, Wisconsin. The Town Board finds:
  - 1.) Sexually oriented businesses lend themselves to the ancillary unlawful and unhealthy activities that are presently uncontrolled by the operation of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

- 2.) Certain employees of sexually oriented businesses defined in the law as adult theaters and adult cabarets engage in higher incidents of certain type of illicit sexual behavior than employees of other establishments.
- 3.) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
- 4.) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- 5.) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- 6.) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- 7.) That here in Chautauqua County we have, in recent years, had an HIV-AIDS outbreak, which has caused the County to become very aware of the inherent problems.
- 8.) The development and proliferation of adult entertainment facilities without regulations as to citing, concentration and location may result in the deterioration of residential neighborhoods and business districts. In addition, if these types of businesses are located near schools, churches and/or other youth related facilities, they may adversely affect the public welfare and morals of minors and others residing in the Town of Hanover.
- 9.) The findings noted in Sub-Sections (a) and (h) raise substantial governmental concerns.
- 10.) Sexually oriented businesses have operational characteristics, which should be reasonably regulated in order to protect those substantial governmental concerns.

### **C. Definitions**

- 1.) Adult Book/Video/Media Store – An establishment having as its stock and trade, books, magazines, videos and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined herein, or an establishment with a segment or section devoted to the sale or display of such

material, and/or offers for sale sexual devices related to and/or connected with specified sexual activities and/or specified anatomical areas.

- 2.) Adult Entertainment Facilities – Means and refers to “adult news racks”, “adult/video/media stores”, “adult motion picture/video theaters”, and “exotic cabarets”.
- 3.) Adult Motion Picture/Video Theater – An enclosed building used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by persons within the use.
- 4.) Adult News Rack – Any machine or device, whether coin operated or not, which dispenses material which is distinguished or characterized by emphasis depicting or relating to the “specified sexual activities” or “specified anatomical areas” defined herein.
- 5.) Exotic Cabaret – A nightclub, bar or restaurant or similar commercial establishment which regularly features 1) persons who appear nude or semi-nude; or 2) live performances which are characterized by the exposure of “specified anatomical areas” or 3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by exhibition or display of “specified sexual activities” or “specified anatomical areas”.
- 6.) Specified Sexual Activities – a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- 7.) Specified Anatomical Areas – a) less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the areola; b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

#### **D. Location**

- 1.) The following provisions shall apply to the location of adult entertainment facilities in the Town of Hanover: a) adult entertainment facilities shall be permitted only in the Town of Hanover District Light Industry District (I) upon approval of a Special Use Permit by the Zoning Board of Appeals; b) no adult entertainment facilities shall be permitted within 1,000 feet of any lot with a residential use; c) no adult entertainment facilities shall be permitted within 1,000 feet of any:
  - a.) School



- b.) Religious institution
- c.) Public park or public recreation facility
- d.) Hospital or medical facility
- e.) Day Care-Family Center

**E. Additional Sign Requirements.**

- 1.) The following provisions shall apply to signs erected or maintained in connection with adult entertainment facilities: a) no off-site signs shall be permitted.

**F. Public Display of Certain Matter Prohibited**

- 1.) Materials offered for sale from “adult news racks” shall not be displayed or exhibited in any manner which exposes to the public view any picture or illustration depicting any “specified sexual activity” or any “specified anatomical area”. Materials offered for sale or viewing at any adult entertainment facility shall not be displayed or exhibited in a manner which exposes any depiction of “specified sexual activity” or “specified anatomical area” to the view of persons outside the building or off the premises on which such store or theater or use is located.

**G. Restrictions Cumulative in Nature**

The restrictions set forth in this law are in addition to any other applicable provision of the Zoning Law of the Town of Hanover. In the event of any conflict between any such provisions, the more restrictive provisions shall be applied.

**H. Prohibition**

No adult entertainment facilities as such are defined in this Local Law shall be permitted to exist, operate, transact business, or otherwise be maintained in the Town of Hanover, except in accordance with the provisions of this local law.

**I. Penalty**

Any violation of this Local Law shall be deemed a violation of the Town of Hanover Zoning Law and shall be subject to the same penalties and enforcement provisions as contained therein and/or as contained in Section 268 of the Town Law of the State of New York as from time to time amended.

## § 604 – TELECOMMUNICATIONS LAW.

**A. Intent** - The Town of Hanover recognizes the increased demand for wireless communication transmitting facilities and the need for the services they provide. Often, these facilities require the construction of a communications tower and/or similar facilities. The intent of this Local Law is to regulate the location, construction, and modification of Telecommunication facilities in accordance with the guidelines of the Telecommunications Act of 1996 and other applicable laws by:

- 1.) Accommodating the need for telecommunication towers/antennas while regulating their location and number in the community.
- 2.) Minimizing adverse visual impacts of these towers/antennas through proper design, siting and screening.
- 3.) Preserving and enhancing the positive aesthetic qualities of the built and natural environment in the Town of Hanover.
- 4.) Providing for the health, safety, and welfare of the community by avoiding potential damage to adjacent properties from tower failure, falling, ice, etc., through engineering and proper siting.
- 5.) Requiring the joint use of towers when available, and encouraging the placement of antennas on existing structures, to reduce the number of such structures in the future. No new tower may be established if there is a technically suitable space available on an existing communications tower or structure within the search area that the new call site is to serve.

### **B. Definitions.**

- 1.) Telecommunication Facilities – Towers and/or Antennas and Accessory Structures together used in connection with the provision of cellular telephone services, personal communications services, digital and/or data communications services, paging services, radio and television broadcast services, and similar broadcast services.
- 2.) Tower – A structure designed to support antennas. It includes without limit, free-standing towers, guyed towers, monopoles and similar structures which *or which do not* employ camouflage technology.

- 3.) Antenna – A system of electrical conductors that transmit or receive frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communication services (PSC) and microwave communications.
- 4.) Accessory Structure – A non-habitable accessory facility or structure serving or being used in conjunction with a communications tower and/or similar facility, and located on the same lot as the communications tower. Examples of such structures include utility or transmission equipment, storage sheds or cabinets.

### **C. Where Permitted, Approvals and Bulk Requirements.**

No Telecommunications Facility shall be sited, locate, constructed, erected or modified without issuance of a building permit and such permit or approvals as are prescribed in this Law.

- 1.) Co-located/Existing Structure Antennas: An antenna that is to be attached to an existing communications tower, smoke stack, water tower, or other existing structure is permitted in all zoning districts, except as hereafter stated. The antenna is permitted as of right upon issuance of a building permit. The building permit application will include a structural analysis/report (Certified by a NY State licensed Professional Engineer Architect) verifying the ability of the structure to handle the antenna, and certification by a qualified Radio Frequency Engineer that the cumulative emissions from the site meet federal guidelines. The height of the new antenna shall not extend above the height of the existing structure by more than 50 feet, in no event shall the entire structure, including antenna, exceed 300 feet.

(Local Law 2 of 2012) Co-location of antenna on said tower shall be permitted in accordance with Section 16 of the Zoning Law of the Town of Hanover entitled “Telecommunications Facilities Law of the town of Hanover.”

The antenna and any mounting structure and related equipment shall be integrated into said structure in such a manner as to minimize its visual impact to the greatest extent practicable.

- 2.) Non-Co-located/New Structure Antennas – an antenna that will not be mounted on an existing structure as defined above, or is more than 50 feet higher than the existing structure on which it is mounted is permitted in accordance with the following regulations.
  - a.) General Requirements – No application for a non-co-located or a new site for a Telecommunications Facility shall be considered complete unless and until the applicant shall have submitted a report, which establishes to the satisfaction of the Board the following:

- (1) That the applicant is required to provide service locations which it is not able to serve through existing Facilities which are located either within or outside of the Town, showing the specific locations and/or areas applicant is seeking to serve.
- (2) The report shall set forth an inventory of existing Facilities and/or structures within or outside of the Town, which might be utilized or modified in order to provide coverage to the locations applicant is seeking to serve and include a report on the possibilities and opportunities for co-location as an alternative to a new site.
- (3) The applicant must demonstrate that the proposed Facility cannot be accommodated on any existing Facility or structure within or outside of the Town due to one or more of the following reasons:
  - (a) The proposed equipment would exceed the existing and reasonably potential structural capacity of existing Facilities or structures within or outside of the Town considering existing and planned use for those facilities or structures.
  - (b) The existing or proposed equipment would cause interference with other existing or proposed which equipment could not reasonably be mitigated or prevented.
  - (c) Said existing Facilities or structures do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and/or the applicant has not been able, following good faith efforts, to reach an agreement with the owner(s) of such Facilities or structures.
  - (d) Other reasons which make it impracticable to locate or place the proposed equipment on said Facilities or Structures.

### 3.) Zoning Districts, Approvals and Bulk Requirements.

- a.) Municipal or Government owned property / Light Industry / Agricultural / Residential Zoning Districts – Site plan application per Zoning Law Requirements and Section D(1)(c) of this Article. All towers must be set back a minimum of the height of the tower, plus 100 feet from any residentially zoned property or front yard line. If the tower is to be setback less than the height of the proposed tower to any residential district then the application will require a Tower Special Permit per Section D and site plan approval. All Towers shall be setback a minimum of 1,000 feet from any residential dwelling, school or historic structure.

- b.) Towers exceeding 175 feet in height shall be treated as Type I Actions under the State Environmental Quality Review (SEQRA).

Towers shall not be allowed on any other district except as specifically set forth herein.

- c.) All Permitted Districts – Maximum height of tower shall not exceed 300 feet.

#### **D. Tower Special Permit Application Materials**

- 1.) All Applicants for Tower Special Permit shall make written application to the Town board, through the Town Planning Department. This application shall include:

- a.) Tower Special Permit Application Form.

- b.) Applicable Fees.

- c.) Site Plan Application Forms including a Long Form EAF.

- d.) Site plan, in form and content acceptable to the Town, prepared to scale and sufficient detail and accuracy showing at a minimum:

- (1) The exact location of the proposed tower together with guy wire and guy anchors, if applicable.
- (2) The maximum height of the proposed Tower.
- (3) A detail of Tower type (Monopole, Guyed, Freestanding, or other).
- (4) The color or colors of the Tower.
- (5) The location, type and intensity of any lighting on the Tower.
- (6) The property's boundaries (a copy of a property survey must also be provided).
- (7) Proof of the landowner's consent if the applicant will not own the property. (A copy of a lease agreement must also be provided if the applicant will not own the property).
- (8) The location of all structures on the property and all structures on any adjacent property within *(50) fifty feet* of the property lines, together with the distance of these structures to the Tower.
- (9) The names of adjacent landowners.

- (10) The location, nature and extent of any proposed fencing and landscaping and screening.
  - (11) The location and nature of proposed utility easements and access road, if applicable.
  - (12) Building elevations of accessory structures or immediately adjacent buildings.
- e.) “Before” and “after” propagation studies prepared by a qualified Radio frequency Engineer demonstrating existing signal coverage contrasted with the proposed signal coverage resulting from the proposed Telecommunication Facility.
  - f.) A “search ring” prepared by a qualified Radio Frequency Engineer and overlaid on an appropriate background map demonstrating the area within which the Telecommunication Facility needs to be located in order to provide the proper signal strength and coverage to the target cell. The applicant must be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability (or lack of availability) of a suitable structure within the search ring which would have allowed for Co-located Antenna(s), and to what extent the applicant explored locating the proposed Tower in a more intensive use district. Correspondence with other telecommunication companies concerning Co-location is part of this requirement.
  - g.) The Town staff/advisory committees and Planning Board, upon reviewing the application, may request reasonable additional visual and aesthetic information as it deems appropriate on a case by case basis. Such additional information may include, among other things, enhanced landscaping plans, line-of-sight drawings, and/or visual simulations from viewpoints selected by the Town staff/advisory committees. Line-of-sight drawings and visual simulations are mandatory for Applications in Residential and Neighborhood Commercial Zoning Districts.
  - h.) In Historic Districts and important preservation/conservation areas the Town may require additional site plans and Tower Special Permit requirements. These requirements can include specially designed towers, additional screening, greater setbacks and improved landscaping. In siting, these areas should be avoided to the maximum extent possible.

#### **E. Telecommunications Facility Special Permit Standards**

The following criteria will be considered by the Town prior to the approval/denial of a request for a Tower Permit, the criteria listed may be used as a basis to impose reasonable conditions on the applicant. All denials shall be in writing and supported

by substantial evidence contained in a written record. Town Special Permits are non-assignable and non-transferable.

1.) Siting Preferences – The Town may express a preference that the proposed Telecommunications Facility be located in a higher intensity use district or on higher intensity use property, provided there is a technologically feasible and available location. A guideline for the Town’s preference, from most favorable to least favorable districts/property, is as follows:

a.) Property with an existing structure suitable for co-location.

b.) Municipal or government owned property.

c.) Light Industrial.

d.) Agricultural/Residential

Any request by the Town for information on a preferred alternative site shall not unreasonably delay the application.

2.) Aesthetics – Telecommunication Facilities shall be located and buffered to the maximum extent, which is practical and technologically feasible to help ensure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effort on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

a.) (Tower height, location and design are matters of primary public concern). The Planning Board may require a monopole or guyed Tower (if sufficient land is available to the applicant) instead of a freestanding Tower. Monopoles are a preferred design.

b.) The Planning Board will require reasonable landscaping consisting of trees or shrubs to screen the base of the Tower and/or screen the Tower to the extent possible from adjacent residential property. Existing on-site trees and vegetation shall be preserved to the maximum extent possible.

c.) The Town will require the applicant to show that it has made good faith efforts to co-locate on existing Towers or other available and appropriate structures and/or to construct new towers near existing Towers in an effort to consolidate visual disturbances. However, such request shall not unreasonably delay the application.

d.) Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Towers shall not be

artificially lighted except as required by the Federal Aviation Administration (FAA) or the Town. Towers shall be of non-reflective finish; color subject to Board approval, unless otherwise required by the FAA. Any lighting which may be required by the FAA shall not consist of strobe lights, unless specifically mandated by the FAA.

- e.) No Tower shall contain any signs or advertising devices. Notwithstanding the foregoing, the Board may require appropriate signage indicating ownership of the facility and phone numbers to call in case of emergency.
- f.) The applicant must submit a copy of its policy regarding co-location on the proposed Tower with other potential future applicants. Such policy should allow co-location under the following conditions: (I) the new Antenna(s) and equipment do not exceed structural loading requirements, interfere with tower space used or to be used by the applicant nor pose any technical or radio frequency interference with existing equipment, (II) the party desiring to co-locate pays the applicant an appropriate and reasonable sum to co-locate, and (III) the party desiring to co-locate has a similar policy of co-location for the applicant.
- g.) All other uses ancillary to the antenna/tower and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the site unless otherwise permitted in the particular Zoning District.

3.) Radio-Frequency Effect – The Planning Board may impose a condition on the applicant that the communication antennas be operated only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits, and that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.

#### 4.) Traffic, Access and Safety

- a.) A road turnaround and one parking space shall be provided to assure adequate year round emergency and service access. Maximum use of existing roads, public or private, shall be made. The use of public roadways or road right-of-ways for the siting of a Tower or Antenna(s) accessory structures is prohibited.
- b.) All Towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight (8) feet in height or otherwise sufficiently protected from trespassing or vandalism. Fence must be placed around guy wires so that a minimum of a 12 feet clearance for outside fence to top guy wire at that point.



- c.) The applicant must comply with all applicable State and Federal regulations including but not limited to FAA and FCC regulations.
  - d.) There shall be no permanent climbing pegs within thirty (30) feet of the ground on any Tower.
- 5.) Removal of Tower – The applicant shall agree to remove the tower if the Telecommunications facility becomes obsolete or ceases to be used for its intended purpose for twelve consecutive months. The Planning Board, in its discretion, shall require the applicant to provide a demolition bond for purposes of removing the Telecommunications Facility in case the applicant fails to do so as required above. The sufficiency of the demolition bond shall be confirmed at least every five (5) years by an analysis and report of the cost of removal and property restoration to be performed by a New York State licensed professional engineer, the cost of same to be borne by the applicant. If the said analysis and report determines that the amount of the bond in force is insufficient to cover the removal, disposal and restoration costs, the bond shall be increased to the amount necessary to cover such costs, within ten (10) days of applicant’s receipt of such report.
- 6.) Structural Safety – During the application process, the applicant shall provide a certification from a qualified, licensed engineer, certifying that the Tower meets applicable structural safety standards. The owner shall also have a structural inspection performed every two years by a Licensed Professional Engineer. A report shall be submitted to the Town describing the structural integrity of the Facility, maintenance issues and repairs needed or made, if any. Structural deficiencies shall be remedied within a reasonable time.
- 7.) Maintenance of Telecommunications Facility – All Telecommunications Facilities shall be maintained in good order and repair.

**F. Exemptions**

- 1.) Tower and Antenna(s) may be repaired and maintained without restriction.
- 2.) Antennas used solely for residential household television and radio reception.
- 3.) Satellite Antennas measuring two (2) meters or less in diameter and located in commercial districts, and Satellite Antennas one (1) meter or less in diameter regardless of location.

**G. Procedure**

- 1.) The Town Board may waive or vary any requirement in this Article for good cause shown.

- 2.) In the event of any conflicts or inconsistencies between this Local Law and any other Local Law, including the Zoning Law, this Local Law is meant to control telecommunications towers and similar facilities in the Town unless otherwise specifically referenced in this Law.
- 3.) Tower Special Permits authorized by this Article shall only be issued by the Town Board after referral and recommendation by the Planning Board. And after holding a public hearing that has been advertised in the same manner as for an amendment to the zoning code.

#### **H. Violations/Penalties**

This Local Law is adopted pursuant to the zoning and planning powers granted to the Town under applicable law. In the event of any violation of this law or any permit(s) issued hereunder, the Town may seek enforcement under any available authority, including, but not limited to, Town Law Section 268.

Any facility receiving a Tower Special Permit that subsequently does not meet the requirements and/or conditions of that permit shall have its permit revoked, and the tower and other facilities shall be removed within 90 days of notification by the Town.

#### **I. Permit Fees**

The Town Board shall establish such fees as are necessary for the issuance of permits in accordance with the Town of Hanover Zoning Law.

### **§ 605 – MANUFACTURED HOUSING.**

#### **A. Purpose**

- 1.) To provide for single-family manufactured homes in various settings as a part of providing a spectrum of affordable or cost-effective housing in the Town of Hanover.
- 2.) To establish standards for the location and development of manufactured homes on individual lots and in manufactured home parks.
- 3.) To insure minimum standards of development to protect community aesthetics and property values.

#### **B. Development Standards for Manufactured Homes on Individual Lots**

- 1.) Manufactured homes may be permitted on one parcel, lot or tract, provided that the home is:

- a.) Set upon a permanent, frost-free foundation, as specified by the manufacturer, and that concrete or an approved concrete product enclose the space from the bottom of the home to the ground, which can be either load bearing or decorative. Skirting is not permitted.
- b.) Compliant with all other design standards, setbacks and area requirements applicable to all other homes within the zoning district that the manufactured home is to be located in.
- c.) Is constructed in compliance with the U.S. Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards (24 CFR Part 3280).
- d.) Porches, decks, roofs and associated sheds shall be constructed in accordance with the New York State Uniform Building Code and shall be compatible with the construction of the manufactured home.
- e.) Manufactured homes shall meet the energy code requirements for manufactured housing the New York State Uniform Code.
- f.) Sided with exterior siding similar in appearance to the materials commonly used on conventional, site-built single-family residences.

### **C. Development Standards for Manufactured Home Parks**

#### **1.) Area and Setback Requirements**

- a.) Buffer – An appropriate vegetation or open space buffer shall be located around the perimeter of the park. Type and size of the buffer shall be determined by the density and type of adjacent uses and the need for separating the uses. As a minimum, a 25-foot buffer (open space or vegetation) shall be required, with the Permitting Board determining the need for a greater buffer.
- b.) Setback – All manufactured homes and other development shall be located a minimum of 100 feet from the edge of any public road. Manufactured homes shall be set back a minimum of 20 feet from the edge of the park's private road.
- c.) Lot – Each single-wide manufactured home shall be located on a lot, which is a minimum of 7,260 square feet, and each double-wide manufactured home shall be located on a lot, which is a minimum of 9,700 square feet with a minimum of 50 feet in width. The width requirement can be waived for corner lots.
- d.) Side Yard – Manufactured homes, to include enclosed additions, shall be spaced a minimum of 50 feet from each other.

- e.) Floor Space – The minimum floor space allowed for a manufactured home placed in a park shall be in accordance with area requirements for the district in which the park is located. Add-ons shall not be used in calculating the size.

## 2.) Site Development

- a.) Site Size – Park shall be located on a minimum of ten (10) acres and a maximum of twenty (20) acres and shall be designed for a maximum of 5 units per acre overall.
- b.) Grading – The site shall be graded to ensure proper drainage so that no portion of the site is subject to flooding or erosion.
- c.) The site shall have a minimum of fifty (50) feet of frontage on the highway providing primary access to the site.
- d.) No manufactured home, manufactured home accessory building, manufactured home park office or service building shall be located within fifty (50) feet from any property line encompassing the site to ensure adequate screening and buffering of adjacent properties unless otherwise determined by the Planning Board that a lesser distance would be sufficient due to topography, existing on-site screening, or other circumstances.
- e.) The land lying wholly within the perimeter boundaries of any proposed manufactured home park shall be held in single ownership and shall consist of separately dimensioned, individual lots, collectively held in single ownership and used entirely for rental purposes only.

## 3.) Utilities

Existing and proposed utility services shall be adequate for the proposed development and such utility services shall be placed underground. Each individual manufactured home unit shall be served by central water supply facilities and wastewater treatment facilities as approved by the New York State Department of Health Department.

- a.) Pipes to all manufactured home lots and buildings within the manufactured home park shall supply an adequate supply of pure water for drinking and domestic purposes.
- b.) Each manufactured home lot shall be connected to an on-site sewer plant, which shall connect to the manufactured home situated on the lot to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in the home. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of

any odors and the creation of breeding places for insects and secure from tampering or opening.

- c.) Plumbing connections to each manufactured home shall comply with all regulations of the New York State Plumbing Code;
- d.) Weatherproof electrical service connections and outlets shall be of a type approved by the New York State Board of Fire Underwriters.

4.) Streets and Walkways

- a.) Entrance and exits to the park shall be safety designed.
- b.) Private roads shall be a minimum of 18 feet wide and shall as a minimum be carpet-coated, graveled, or paved, and be approved by the Fire Chief for use by emergency vehicles.
- c.) Private roadways shall be maintained in such a manner so as to permit safe travel year-round (e.g., free of snow and ruts.)
- d.) Walkways from the street to door shall be required in addition to a patio for each manufactured home.

5.) Parking

- a.) Off-street parking shall be provided with a minimum of 400 square feet for each manufactured home with gravel, carpet coating, or paving being used.
- b.) Sufficient auxiliary parking shall be provided for trucks, boats, travel trailers, etc.

6.) Required Recreation Area – Open space and recreational areas shall be set aside and improved at central locations at a rate of 500 square feet per manufactured home. They shall be maintained in a manner conducive to recreational use.

7.) Outdoor Storage – Due to the limited lot sizes and close proximity of manufactured homes no outdoor storage of tools, materials, equipment, junk, or any other items, other than registered vehicles, or patio-related items shall be allowed. Where storage sheds are necessary to comply with this requirement, they shall be located in rear yards and out-of-sight to the greatest degree possible, substantially anchored, and well maintained.

8.) Additional Recreation Areas – The Permitting Board shall also have the authority to require certain recreation or community service facilities at the location of any proposed manufactured home park. These include, but are not limited to, laundry

facilities, public telephone, recreational facilities, parks, open spaces, playgrounds, meeting room and rest rooms. The Permitting Board may find that due to size, topography or location of the manufactured home park, land for parks, open spaces, playground or other recreational purposes cannot be properly located on the property. In that case, prior to approval and filing of the proposed plan, the Permitting Board shall require that a payment in an amount to be determined by the Permitting Board shall be made per manufactured home lot within the proposed Park by the applicant to the Town of Hanover and added to Town recreation funds pursuant to Section 277 of the New York State Town Law. Such amount shall be paid to the Town of Hanover at the time that final approval of the plan is made and no such plan shall be finally approved nor filed until such payment has been made.

- 9.) Snow Removal – The Owner of the manufactured home park shall be responsible for snow removal from the manufactured home park to the public highway. The owner shall be required to accomplish snow removal promptly so as to ensure the safety of the residents and access for emergency vehicles.
- 10.) Site Lighting – Street lighting shall be provided at all entrances and exits to the manufactured home park and on all internal streets, intersections, walkways and common areas. Such lighting shall provide an illumination of .6-foot candles to those areas and shall use full cut off or shielded light fixtures to reduce glare.
- 11.) Fire Protection – The owner/operator of a manufactured home park shall provide suitable and operable fire extinguishers, other fire alarm, and protection devices as may be prescribed by the fire district where the manufactured home park is located. There shall be clear numbering of manufactured homes within the manufactured home park with a layout map provided to the fire and disaster coordinator and to ambulance and police agencies. The local fire department and ambulance service shall review and approve access plans for the manufactured home park to ensure adequate safety and emergency response.

#### **D. Exemptions**

- 1.) Agricultural Farm Worker Housing – A manufactured home located on a farm, as defined by New York State Circular 1150 Article 25-AA – Agricultural Districts, and occupied by an agricultural worker while employed by the owner of said farm, is exempt from the requirements of this section.

### **§ 606 – AUTOMOBILE DEALERSHIPS, SALES, SERVICE AND REPAIR SHOPS.**

Automobile dealerships, sales, service, and repair shops in the business district are no longer a use by right, but rather a use permitted only after Special Use Permit. In

addition to all of the requirements generally found in the Town of Hanover Zoning Law for Special Use Permit Applications, the following will be required as part of an application for a Special Use Permit to own or operate an automobile dealership and/or sales, service repair shop by Special Use Permit in the business district, Town of Hanover.

#### **A. Permit Review Materials**

- 1.) A copy of the applicants NYS Dept. of Motor Vehicles Official Business Certificate as a registered repair shop and a copy of their current NYS Dept. of Motor Vehicles official Business Certificate as a new or used car dealer.
- 2.) Provide a detailed plot plan detailing:
  - a.) Lot size
  - b.) All building dimensions
  - c.) Proposed or established storage buildings Fire access plan
  - d.) Lighting plan Signs
  - e.) A plot plan for vehicle sales, display and storage using 9 feet per car area
  - f.) Drainage and Storm Water Management, DEC regulations compliance

#### **B. Conditions**

- 1.) All vehicles for repair or sale must be displayed on Blacktop, concrete, macadam, or minimum of 4-inch gravel or stone.
- 2.) All automobile parts are to be stored within a building, and repairs shall be performed inside of building.
- 3.) No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled for parts. Vehicle dismantling is not a permitted use.
- 4.) Painting of vehicles is prohibited unless conducted inside an approved spray booth. A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similar enclosed area designated and approved for such purpose.
- 5.) All auto parts of any kind, fluids, tires, and batteries must be stored inside a designated building

- 6.) No trailer or cargo bodies for storage purposes are allowed on property
- 7.) All lighting on the building must be directed toward the ground, not main road
- 8.) The distance of 9 feet between vehicles is required space for vehicles displayed for sale or vehicles that are on property for repairs.
- 9.) Renewal permit for business yearly to verify that compliance is maintained. Permits to be renewed on the anniversary date of the existing permit.
- 10.) Fence will be required if deemed necessary by the Planning Board or ZBA of Town of Hanover.

### **C. Definitions.**

For purposes of this Section, the following terms shall have the definition as set forth in Local Law No.1 of 2008.

**Junked Motor Vehicles** – Any motor vehicle that is old, wrecked, discarded, abandoned, dismantled, or partially dismantled which is in such deteriorated condition that it cannot be legally operated upon the public highway without substantial repairs. With respect to any motor vehicle not required to be licensed or motor vehicles not usually used on public highway, the fact that such motor vehicle has remained unmoved for more than three (3) months and is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a "junked motor vehicle" Any vehicle not having a current, valid state registration and/or inspection sticker shall also be considered a junked vehicle.

**Junkyard** – Any place of storage or deposit, whether in connection with other business or not, where two (2) or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of reclaiming for use of some or all of the materials therein, whether metal, glass, fabric or otherwise, for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk of one (1) or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap for sale re-melting purposes only, and also any junk as defined above.

**Junked** – Every vehicle operated, driven or capable of being operated or driven upon a public highway by any power other than muscular power. For the purposes of this local law motor vehicles shall include cars, motorcycles, buses, and trucks.

**Motor Vehicles** – Every vehicle operated, driven or capable of being operated or driven



upon a public highway by any power other than muscular power. For the purposes of this law, motor vehicles shall include automobiles, cars, motorcycles, buses.

Inspections – The code enforcement officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this law and regulations issued hereunder. The Code enforcement officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this law.

Fees – All other fees not specified set forth shall be as set by resolution of the Town of Hanover Board. Further, the Town Board may amend those fees set forth herein by resolution from time to time.

Damaged – When used in reference to a vehicle shall include visible exterior damage to body parts caused by collision, upset, vandalism, rust or corrosion.

Inoperable – A condition of a vehicle resulting from damage or partial dismantling or from the wearing out or breakdown of mechanical or electrical systems or parts to the degree that such vehicle is not capable of qualifying for lawful operation thereof for its originally intended purpose.

Discarded Vehicles – Any vehicles which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and or possession of and any vehicles the owner of which cannot be found after due and reasonable inquiry.

Enforcement Officer – The Code Enforcement Officer(s), the Zoning Officer, the Building Inspectors or any peace officer or police officer whose powers and duties are within or include the Town of Hanover.

Partially Dismantled – A partially dismantled vehicle is a vehicle(s) lacking a body part or parts such as a fender, hood, door, window, deck lid or tires or wheels or from which headlights, taillights or other equipment has been removed or from which engine parts, transmission or parts thereof, suspension units or parts or similar systems for resale of such removed items. An exception is created for antique collectibles, provided that restoration of such vintage vehicle is in actual process and is actually substantially completed within ninety (90) calendar days.

#### **D. Fences**

- 1.) Fences shall be located and measured from the edge of the public right of way.
- 2.) The type of materials used shall be generally accepted by the industry and commonly used for fencing material. Fences shall be permanent and substantial. Meet the requirements set by Code enforcement and the Town of Hanover Board.

3.) Fences shall be well maintained and aesthetically pleasing.

4.) Fence shall be at least 6 feet in height.

#### **E. Fire Safety**

Fire lane must be maintained at least (20) twenty feet wide for access to building and car lot. Must follow state requirements for fire safety.

#### **F. Renewal of Permit**

Each Special Use Permit granted under this Local Law shall be valid for a period of one year. Applications for renewal of the permit shall be in writing, signed by the applicant on a form provided by the Town of Hanover and be accompanied by a fee of \$50.00. Said renewal application permit shall be filed with the Town on or before the anniversary date of the existing permit and shall contain the following: The location and legal address of the dealership and copies of all current applicable County, State and /or Federal permits required to operate the business. Followed by an inspection of the yard by the Code Enforcement officer and compliance with all provisions of this law.

#### **G. Pre-Existing Automobile Sales, Service and Repair Shops (Business District)**

All permitted automobile dealer, sales, service, and repair shops in existence prior to the enactment of this law shall become subject to the provisions of this law and shall come into compliance with its provisions within 18 months of being notified by Code Enforcement Officer for the Town of Hanover of enactment. In addition all existing and permitted automobile dealer, sales, service, and repair shop owners shall within 12 months of being notified furnish a site plan (to scale) indicating boundary of the land it occupies, the limits of the current yard, including all roadways, fences and buildings on the premises.

In the event any property owner or operator of a pre-existing automobile sales, service, dealership or repair shop is unable by reason of physical impossibility to comply with these rules and regulations as adopted application may be made to the Zoning Board of Appeals for a variance from the strict application of said rules and regulations. The Zoning Board of Appeals shall have no authority to issue a variance, unless it finds that the implementation of the rules and regulations as required by this Local Law are impossible due to physical impossibility. Once having made such a finding, the Zoning Board of Appeals shall only grant such minimal relief as is necessary and warranted based on the physical impossibility found, keeping in mind the intent of the Town of Hanover in enacting the rules and regulations in this Local Law.

## **H. Penalties For Offenses**

Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove an abandoned, junked, discarded or unlicensed motor vehicle as required by these definitions, or who shall fail or refuse to comply with the order of the Town of Hanover Board to remove a motor vehicle after notice and hearing as herein provided or who shall violate any of the provisions of this local law, or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the Town of Hanover in removal and destruction of a motor vehicle as described herein shall be, upon conviction thereof, fined a sum not to exceed \$250.00 for each violation. Additional \$250.00 dollars each week as long as violation continues. Each week a violation continues to exist shall constitute a separate offense.

## **§ 607 – WIND ENERGY CONVERSION SYSTEMS (WECS)**

The Town of Hanover recognizes the increased demand for converting wind energy into electrical energy. The intent of this local law is to regulate wind energy conversion systems (WECS) in the Town of Hanover. The intent of this local law is to accommodate the necessary infrastructure for the provision of utility scale and small WECS wind-powered electricity generation in facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town of Hanover. Furthermore, to address the visual, aesthetic and land use compatibility aspects of wind energy conversion systems.

### **A. Definitions**

Accessory, Facility, or Equipment – Any structure other than a WECS, related to the use and purpose of deriving energy from such towers, located at the tower facility.

Agricultural Or Farm Operations – The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a utility scale enterprise, including a "utility scale horse boarding operation" as defined in subdivision thirteen of New York Agriculture and Markets Law§ 301 and "timber processing," as defined in subdivision fourteen of New York Agriculture and Markets Law§ 301. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

EAF – Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

EIS – Environmental Impact Statement used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and

Regulations.

Nacelle – The portion of the wind turbine that connects the rotor to the support tower and houses the generator, gearbox, drive train and braking system.

Residence – Shall mean any dwelling suitable for habitation existing in the Town of Hanover on the date an application is received including seasonal homes, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, senior housing, schools or other buildings used for educational purposes. A residence may be part of a multi-dwelling or multi-purpose building, but shall not include correctional institutions.

SEQRA – The New York State Environmental Quality Review Act and its implementing regulations in Title VI of the New York Code of Rules and Regulations, Part 617.

Site – The parcel or parcels of land where a WECS is to be placed. The site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying set back requirements. Any property that has a WECS, or has entered an agreement for said facility or a set back agreement, shall not be considered off-site.

Siting Agency – The applicant, person or persons who are applying to site a utility scale wind energy-deriving tower facility.

Small WECS – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than ten (10) kilowatts, and which is intended to primarily reduce consumption of utility power at that location.

Sound Pressure Level – Means that level which is equaled or exceeded a stated percentage of time. L10-50 dBA indicates that at any hour of the day 50 dBA can be equaled or exceeded only ten (10%) percent of the time, or for six (6) minutes. The measurement of the sound pressure level can be done according to the international standard for acoustic noise measurement techniques for wind generators (IEC 61400-11 ), or other accepted procedures.

SWPPP – Stormwater Management Pollution Prevention Plan, as required by New York State Department of Environmental Conservation regulations.

Total Height – The height of the tower and the furthest vertical extension of the WECS.

Utility Scale – A WECS other than a Small WECS.

Wind Energy Conversion Systems (WECS) – Any mechanism designed for the purpose of converting, wind energy into electrical energy.

Wind Energy Facility – Any wind energy conversion system, Small WECS, or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads, and other accessory structures and appurtenances.

Wind Measurement Tower – A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

Wind Overlay Zoning District – A district which encompasses one or more underlying zones and that establishes requirements for Wind Energy Facilities.

## **B. Permits**

- 1.) No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Hanover except in compliance with this Local Law.
- 2.) No WECS shall be constructed, reconstructed, modified, or operated in the Town of Hanover except in a Wind Energy Overlay District with a Special Use Permit approved pursuant to this Local Law.
- 3.) No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Hanover except pursuant to a Special Use Permit issued pursuant to this Local Law.
- 4.) No Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Hanover except pursuant to a Special Use Permit issued pursuant to this Local Law.
- 5.) This Local Law shall apply to all areas of the Town of Hanover.
- 6.) Exemptions – No permit or other approval shall be required under this Article for WECS utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least one and a half times its Total Height from a property line, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a state or county agricultural district shall apply for a Special Use Permit in accordance with this Local Law, but shall not require a height variance. Prior to the construction of a WECS under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.
- 7.) Transfer – No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without

prior approval of the Town, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this Section, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor of any other party under this Section unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.

- 8.) Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; (4) no increase in noise produced by the WECS, and (5) the WECS is not currently in violation of any permit condition or provision of this Local Law.
- 9.) The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

### **C. Procedure**

- 1.) Applications for siting WECS facilities shall be submitted to the Hanover Code Enforcement officer. Applications shall be made by the owner of the property or his/her duly authorized representative, who shall attend the meeting of the Town Board to discuss the application. Any application deemed incomplete by the code enforcement officer or the Town Board shall be returned to the applicant and the Town or its Officer or Board shall undertake no action.
- 2.) The Town Board may refer the application to the Planning Board for recommendations, which shall be reported by the Planning Board to Town Board within forty-five (45) days of said referral.
- 3.) Public Hearing – After reviewing the site plan and recommendations, if any, from other involved Town or County Agencies, the Town Board shall hold a Public Hearing, which Public Hearing shall be held within sixty-two (62) days from the day the application is received by the Town Board. Notices of the Public Hearing shall be mailed to adjacent property owners within five hundred (500) feet from the property line boundaries of the proposed Wind Energy Overlay District and published in the Town's official newspaper, one time, not less than ten (10) nor more than twenty (20) days before said hearing. But where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required.
- 4.) The applicant shall prepare and mail the notice of public hearing prepared by the Town, and shall submit an affidavit of service to the Town Clerk. The assessment

roll of the Town shall be used to determine mailing addresses.

- 5.) The public hearing may be combined with public hearings on any environmental impact statement or requested waivers.
- 6.) Final Special Use Permit and Site Plan – A final site plan for the Special Use Permit application shall substantially conform to the site plan that has been approved, and may incorporate any revisions or other features recommended by the Town of Hanover Planning Board.
- 7.) Town of Hanover Town Board Action – Within sixty-two (62) days from the date of the public hearing, the Hanover Town Board shall render a decision of approval, conditional approval or disapproval. This time period may be extended by mutual consent of the applicant and the Board. The decision of the Hanover Town Board shall be filed in the Office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
- 8.) Conditions attached to the Issuance of Special Use Permits – The Town of Hanover Town Board shall have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits
- 9.) Reimbursable Costs – Costs incurred by the Hanover Town and Planning Boards for consultation fees or other extraordinary expense in connection with the review of a proposed special use permit shall be charged to the applicant.

#### **D. Wind Energy Conversion System Facility Permit Required**

No Wind Energy Conversion System shall be sited, located, constructed, erected or modified without the issuance of a special use permit as prescribed in this article. (Reference §607(C))

#### **E. Zoning District And Bulk Requirements**

- 1.) WECS facilities may be permitted in the Wind Overlay Zoning District, which may be created in the Agricultural Residential (A-1) District, upon the issuance by the Hanover Town Board of a Special Use Permit, under this Article; all applications will require a site plan as provided herein.
- 2.) Setbacks – Each WECS shall be setback as measured from the center of the WECS a minimum distance of:
  - a.) 500 feet from the nearest site boundary property line, right-of-way, easements, and power lines and 500 feet where the boundary is with state, county, town, or

village -owned property.

- b.) 500 feet from the nearest public road.
  - c.) 1,000 feet from the nearest off-site residence, school, church or historic structure existing at the time of application, as measured to the exterior of such structure.
  - d.) 100 feet from state-identified wetlands. This distance may be adjusted to be greater at the discretion of the reviewing body, based on topography, land cover, land uses, and other factors that influence the flight patterns of resident birds.
  - e.) 500 feet from gas wells, electric or gas distribution lines unless waived in writing by the property owner and well owner or applicable utility owner.
- 3.) Noise Limit – The statistical sound pressure level generated by a WECS shall not exceed  $L_{10-50}$  dBA measured at any off site Residence existing at the time of the application. If the ambient sound pressure level exceeds 48 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
- 4.) In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph 3 of this subsection shall be reduced by 5 dBA. A pure tone is defined to exist if the 1/3 octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two contiguous 1/3 octave bands by 5 dBA for center frequencies of 500 Hz and above, by 8 dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to 125 Hz.
- 5.) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches, and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed 30 mph at the ambient noise measurement location.
- 6.) Any noise level falling between two whole decibels shall be the lower of the two.
- 7.) All applications for WECS exceeding 120 feet in height shall be treated as a Type



One Action under the State Environmental Quality Review Act.

## **F. Application Requirements**

A plan for the proposed development of a project utility scale WECS, including the proposed Wind Energy Overlay District and individual Special Use Permit applications for WECS shall show and include the following:

- 1.) Name of the project, the address and Section, Block and Lot number of each proposed WECS location and the boundary lines of the parcel on which the project will be located, a location map showing proposed sites location, date, North arrow and scale. Engineering and or Surveyor maps.
- 2.) Name and mailing address of the developer or applicant and owners of the parcels where development is proposed.
- 3.) Name and mailing address of all owners of record of abutting parcels, or those owners within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed. The applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
- 4.) A map prepared by a surveyor or engineer licensed in the State of New York shall be provided in the EIS showing all existing lot lines, easements and right-of-ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities and location of all existing and proposed utility systems to the facility. A map of all above and below ground utilities near the tower site that could possibly be impacted.
- 5.) Boundaries of the proposed Wind Energy Overlay Zoning District.
- 6.) A map showing existing and proposed topography at a maximum of five (5) foot contour intervals. (Applies to utility scale only)
- 7.) A landscape plan showing all existing natural land features, trees, forest cover, buildings and structures and all proposed changes to these features including size and type of plant material and erosion control measures. (Applies to utility scale only)
- 8.) State Environmental Quality review Act (SEQRA). Nothing shall prohibit the Board from requiring an environmental impact statement if deemed necessary by the Board. WECS are considered a Type I action and require a full Environmental Assessment Form (EAF) and a visual EAF to be completed and submitted to the town.
- 9.) Photography, assessing the visibility from the key viewpoints, existing tree lines and proposed elevations. Pictures shall be digitally enhanced to simulate the

appearance of the "as built" above the ground site facilities as they would appear from distances within three (3) mile radius of such WECS. No fewer than four (4) and no more than the number of proposed individual WECS plus three (3) color photos. Pictures shall be no smaller than 8"x 10". This requirement may be waived for Small WECS.

- 10.) Documentation of the proposed intent and capacity of energy generation as well as a justification for the height of any WECS.
- 11.) Justification for any clearing required. (Applies to utility scale only)
- 12.) Preliminary report proposed by the WECS siting agency describing (Applies to utility scale only):
  - a.) Surrounding topography in relation to the capabilities for generation of electricity by wind.
  - b.) Required improvements for construction activities, including those within the public right-of-way or land controlled by the Town of Hanover.
  - c.) Proposed mitigation measures for visual impacts of the tower facility.
  - d.) Proposed safety measures to mitigate wind energy–deriving tower failure.
- 13.) Elevation map showing the wind energy-deriving tower's height and design including a cross section of the structure and components of the nacelle; the wind energy–deriving tower's compliance with the applicable structural standards and the wind energy-deriving tower's abilities in terms of producing energy. (Applies to utility scale only)
- 14.) A description of the general geographic areas that would be acceptable for wind projects within the Town of Hanover: furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the WECS. (May waive for Small WECS)
- 15.) Description of the applicant's long range plans with project market demand and long–range facility needs within the Town of Hanover. (May waive for Small WECS)
- 16.) Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. The base map used shall be a published topographic map showing natural and structural or built features. (To be provided in the EIS. May waive for Small WECS)
- 17.) Report showing soil logs, soil profile analysis and storm water run–off calculation

for the area being disturbed. (To be provided in the SWPPP and EIS. May waive for Small WECS)

- 18.) Plans to prevent the pollution of the surface or ground water, erosion of soil, both during and after construction, excessive run-off and flooding of the other properties as applicable. There should be pre-construction and post-construction drainage calculations for the site done by a New York State licensed engineer showing there will be no increase of run-off from the site. (To be provided in the SWPPP and EIS, May waive for Small WECS)
- 19.) All information regarding requirements for migratory bird flyways with documents by the EPA, NYSDEC or US Fish and Wildlife Service. (To be provided in the EIS, May waive for Small WECS)
- 20.) All information regarding FAA rules and regulations, additional permits necessary or any other applicable regulations from the Federal Communications Commission (FCC) and Federal Aviation Agency (FAA) for installation of conversion systems. Proof of compliance with the FCC and FAA regulations shall be submitted prior to the finalization of the EIS and issuance of a Special Use Permit by the Town Board, Town of Hanover.
- 21.) Blade Throw and Ice Throw Risk – Either the Application or the EIS shall evaluate the risk from Blade Throw and Ice Throw Risk.
- 22.) Catastrophic Tower Failure – A report from the turbine manufacturer stating:
  - a.) The wind speed and conditions that the turbine is designed to withstand (including all assumptions)
  - b.) The incidence of catastrophic failures and the conditions reported at the time of failure.
- 23.) Noise Report – A noise report that shall at a minimum include the following: (May waive for Small WECS)
  - a.) A description and map of the project's noise producing features, including the range of noise levels expected, and the tonal and frequency characteristics expected, and the basis of the expectation.
  - b.) A description and map of the noise sensitive receptors, i.e., residences, libraries, schools, places of worship and other facilities where quiet is important within two (2) miles of the proposed facility.
  - c.) A report prepared by a qualified engineer, that analyzes the pre-existing ambient daytime and nighttime noise regime (including seasonal variation), including but not limited to: separate measurements of low frequency and A-weighted noise

levels across a range of wind speeds (including near cut-in), turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction and analyses at affected sensitive receptors located two (2) miles of the proposed project site. Potential sensitive receptors at relatively less windy or quieter locations than the project should be emphasized.

- d.) A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers, and estimates of expected noise levels at sensitive receptor locations.
- e.) A description and map of the cumulative noise impacts.
- f.) A description of the projects proposed noise control features, including specific measures proposed to protect workers, and specific measures proposed to mitigate noise impacts for sensitive receptors to a level of insignificance.
- g.) Identification of any problem areas
- h.) Summary of Project Developer's proposed Noise Complaint resolution Program, including post- construction testing.
- I.) Manufactures Noise design and field-testing data both audible (dBA) and low frequency (deep base vibration) for all proposed structures.

## **G. Standards**

The development of utility scale WECS and related structures may be permitted with approval by the Hanover Town Board, subject to the following requirements:

- 1.) Location – Applications for wind energy-deriving towers shall locate, erect and site towers in accordance with the following requirements:
  - a.) No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operations.
  - b.) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined that a WECS is causing electromagnetic interference, the applicant/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for the specific WECS or WECS causing the interference.

- c.) No individual tower facility shall be installed in any location where there is a recognized migratory flight path for birds or at a location where birds commonly congregate, unless applicant can demonstrate that the operation of the wind energy-deriving Tower will not have a significant impact on either migratory or resident birds. Conclusions of no significant impact within these recognized areas shall be the results of studies conducted over a period of a minimum of one year by expert consultants and in compliance with NYS DEC regulations, at the expense of the applicant.
- d.) WECS shall be painted a non-obtrusive (e.g. light environmental color such as white, gray or beige) color that is non reflective.
- e.) A New York State Licensed professional engineer shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards. (Town Board may waive for Small WECS)

2.) Emergency Shutdown/Safety

- a. Procedures acceptable to the Hanover Town Board for emergency shutdown of power generation unit shall be established and available with local agencies as required by the Town.
- b. No tower or facility shall exhibit any signs or advertising. Applicant shall post an emergency telephone number so that the appropriate people may be contacted should any wind energy-deriving tower need immediate attention.
- c. No WECS shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- d. The safety of the design of all conversion systems shall be certified by a licensed professional engineer experienced in WECS. The standard for certification shall be good engineering practices and shall conform to New York State's officially adopted building and electrical codes.
- e. The minimum distance between the ground and any part of the rotor blade shall be thirty (30) feet.

3.) Lighting – Lighting shall be in compliance with FAA regulations.

4.) Utility Service – All power transmission lines from the wind generation electricity facilities to non-site substations shall be underground unless specifically waived by the Town Board as part of the Special Use Permit. Where the electrical components of an installation vary from the Manufacturer's standard design or specifications, the proposed modifications shall be reviewed and certified by a NYS registered

professional engineer for compliance with requirements of the national Electrical Underwriter's Code and good engineering practices.

5.) Height

- a.) The height of any WECS shall be limited to the minimum required to provide needed energy by demonstrated demand, or need.
- b.) Small WECS shall not exceed a total of seventy-five (75) feet unless the parcel on which the WECS is to be located is ten (10) acres or more, in which case the maximum height of the tower, including the turbine and blades, shall be 120 feet.
- c.) WECS shall not exceed a total height of 495 feet including the turbine and blades.

6.) Access Road – Existing roadways shall be used for access to the site whenever possible. In the case of constructing roadways, they shall be constructed in a way so that they do not disrupt normal drainage patterns, and are not conspicuous to the surrounding environment.

7.) Accessory Structures/Facilities – Transmission facilities and or buildings shall be located behind ridges or vegetation to screen from visibility unless specifically waived by the Town Board as part of the Special Use Permit. Removal of trees and other vegetation on the site shall affect the minimum area and number of trees possible to minimize soil erosion.

8.) Security Provisions

- a.) No climbing device of any kind shall be attached to the outside of a WECS. Only internal ladders with locked doors.
- b.) All towers or poles must be unclimbable by design or protected by anti-climbing devices.
- c.) A WECS is prohibited upon the roof of any structure unless the structure has been approved for installation of a conversion system by a structural engineer certified by the State of New York.

9.) Compliance with the National Electrical Code

- a.) Building permit applications shall be accompanied by a one line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner conforms to the National Electrical Code. The application shall include a statement from a New York State licensed professional engineer indicating that the electrical system

conforms to good engineering practices and complies with the National Electrical Code. The manufacturer normally supplies this certification. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

- b.) All electrical lines shall be placed in compliance with the current electrical code standards and appropriately marked and identified as specified by the Town. A visible warning sign of "High Voltage" will be placed at the base of all WECS. The letters on the sign shall be a minimum of six (6) inches in height.
- c.) The applicant shall, prior to the receipt of a building permit, demonstrate that the proposed facility meets the system reliability requirements of the New York Independent System Operator, or provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and/or the applicable Transmission owner.

10.) Insurance/Liability – The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the WECS at all times. As part of the application review process, the Town of Hanover may require proof that the applicant is carrying sufficient liability, workers compensation, etc, during installation and operations of proposed facility. Limits for said policy shall be set according to the size and scope of each project.

#### 11.) Abatement

- a.) Any WECS which has not been generating energy for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and or enclosures accessory to such WECS shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months after I year of non-use of such WECS. The permittee is responsible for removal.
- b.) Bond/Security – All successful applicants shall furnish and file with the Town Clerk a performance bond to be payable to the Town and in an amount to be determined by the Town for the purpose of covering damage to any Town property during the construction, maintenance, operation or removal of the WECS facility.
- c.) Decommissioning Security – In addition, all successful applicants shall furnish and file with the Town Clerk a bond or other security for the purpose of paying for the removal of and de-commissioning of the WECS facilities in the event that such WECS facilities are no longer in use and require removal under this article and upon failure of the then-owner or operator to remove same in accordance with this article (such bond or other security, a "Decommissioning Bond"). The Decommissioning Bond shall remain valid and enforceable during the entire time

the facility is permitted to operate and for an additional period of two years thereafter and as may be necessary to ensure the de-commissioning and removal of the WECS in the event the owner/operator fails to do so as required by this article. The Decommissioning Bond may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant.

d.) Decommissioning Plan – The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. The Plan shall include the Decommissioning Bond required by this Section.

e.) If removal of towers and appurtenant facilities is required and applicant, permit holder, or successors fails to remove the towers and appurtenant facilities from the property within one hundred twenty (120) days from the date of notification by the Town Board, the Board shall contract for such removal and pay for removal from the Bond.

12.) Right of Entry and Inspection – Upon notice to the applicant, the Code Enforcement Officer or any duly authorized agent of the Town shall be allowed to enter on the property and make such inspections as deemed necessary during the construction and assembly of the WECS, and to ensure compliance with permit conditions.

13.) Fees – Applications, permits, and inspection fees for WECS applicants under this article shall be as established by the Town Board of the Town of Hanover by Town Board Resolutions, as from time to time enacted.

#### H. WECS Facilities Maintenance

The Town Code Enforcement Officer and/or Building Inspector or outside consultant designated by the Town Board are empowered to enforce these regulations.

1.) The sufficiency of the bond for removal shall be confirmed at least every year by an analysis of the cost of removal and property restoration performed by a licensed New York State professional Engineer with results to be communicated to the Town. If the bond amount in force is not sufficient to cover the cost of the removal, it shall be increased within thirty (30) days to cover such amount.



- 2.) The Facility shall be inspected at least every two (2) years for structural Integrity by a New York licensed professional engineer and a copy of the inspection report submitted to the Town.
- 3.) All WECS shall be maintained in good order and repair and all such work shall comply with all applicable code requirements of any governmental body issuing such rules and/or regulations.
- 4.) No outside storage of vehicles, materials or waste shall be allowed except for the limited periods when the facility is undergoing construction, repair or maintenance.

**I. Exemptions**

Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Board approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; (4) no increase in noise produced by the WECS, and (5) the WECS is not currently in violation of any permit condition or provision of this Local Law.

**J. Purpose And Intent – Small Wind Energy Conversion System**

- 1.) The purpose of this section is to provide standards for Small WECS designed for home, farm, and Small WECS use on the same parcel, and that are primarily used to reduce consumption of utility power at that location and not for sale off-premises.
- 2.) Applications for Small WECS energy permits shall include:
  - a.) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, name, address, and telephone number of the agent, as well as an original signature.
  - b.) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
  - c.) Address of each proposed tower location, including Tax Map section, block and lot number.
  - d.) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
  - e.) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the

Uniform Fire Prevention and Building Code.

- f.) Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
  - g.) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
  - h.) A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
- 3.) Development Standards – All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.
- a.) A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.
  - b.) Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for the purposes of this section.
  - c.) Small WECS shall be used primarily to reduce the on-site consumption of electricity.
  - d.) Tower heights may be allowed as follows:
    - (1) Sec Section 1608 E (2).
    - (2) The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
  - e.) The maximum turbine power output is limited to 10 KW.
  - f.) The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to

minimize any visual disruption.

- g.) The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- h.) Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- i.) All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- j.) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- k.) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- l.) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- m.) Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.
- n.) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250-foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- o.) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and

Building Code.

p.) All Small WECS shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

4.) Standards – A Small WECS shall comply with the following standards:

a.) Setback Requirements – A Small WECS shall not be located closer to a property line than one and a half times the total height of the facility.

b.) Noise – Except during short-term events, including utility outages and severe windstorms, a Small WECS shall be designed, installed, and operated so that noise generated by the system shall not exceed the 50 decibels (dBA) as measured at the closest neighboring inhabited dwelling.

5.) Abandonment of Use – A Small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

6.) A Small WECS shall be permitted only in Zoning District (A-1), Agricultural Residential.

#### **K. Wind Measurement Towers**

1.) Wind Site Assessment – The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("MET") towers, shall be permitted on the issuance of a Special Use Permit in accordance with this section.

2.) Applications for Wind Measurement Towers shall include:

a.) Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

b.) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (1.) confirming that the property owner is familiar with the proposed applications and (2.) authorizing the submission of

the application.

- c.) Address of each proposed tower location, including Tax Map section, block and lot number.
- d.) Proposed Development Plan and Map.
- e.) Decommissioning Plan – The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the Wind Measurement Tower; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration; 5) the method, such by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the Wind Measurement Tower will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of three feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner. The Plan shall include the Decommissioning Bond required by this Section.
- f.) Decommissioning Security – The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the of the life of the facility. This fund may consist of a letter of credit from a State of New York- licensed financial institution. All costs of the financial security shall be borne by the applicant.

### 3.) Standards for Wind Measurement Towers

- a.) The distance between a Wind Measurement Tower and the property line shall be at least one and a half times the total height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
- b.) Special Use Permits for Wind Measurement Towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board in accordance with the procedure of §1–20.

## L. Violations/Penalties

This article is adopted pursuant to the zoning and planning powers granted to the Town under Town Law of the State of New York and other applicable law, rule and regulation. In the event of any violation of this article or permit issued hereunder, the Town may seek enforcement under any available authority, including but not limited

to Town Law, Section 268, as from time to time amended.

Any applicant upon receipt of a Special Use Permit for a Wind Energy Conversion System Facility that substantially does not meet any of the requirements and/or conditions of that permit, shall have its permit revoked and the WECS Facility removed within one hundred twenty (120) days of notification by the Town of such violation. Nothing herein shall limit or prohibit the Town from seeking equitable or injunctive relief for a violation of this article in any court of competent jurisdiction.

- M. **Host Community Agreement** – Nothing in this Article shall be read as limiting the ability of the Town to enter into Host Community Agreements with any applicant to compensate the Town for expenses or impacts on the community.
- N. **Tax Exemption** – The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law Section 487, pursuant to the authority granted by paragraph 8 of that law.
- O. **Severability** – Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.
- P. **Miscellaneous** – The amendments in this local law shall apply to any and all applications pending at the time of enactment for which final permits have not been issued.
- Q. **Repealer** – That the enactment of this local law shall act as a repealer of Local Law No. 4 of 2006 previously enacted by the Town Board of the Town of Hanover providing for wind energy conversion systems. That in the event of any conflict in local law, ordinance, rule or regulation having to do with wind energy conversion systems and wind energy facilities, the provisions of this Local Law shall prevail.

## § 608 – HOUSEHOLD SALES.

In order to preserve the character of neighborhoods, household and other similar type of noncommercial sales (lawn sales, garage sales, flea market, etc.) shall be subject to the following conditions:

- A. **Frequency** – Sales shall be limited to a maximum of three (3) weekends of three (3) days each per year per property owner. More sales than this maximum shall require a Special Use Permit or a Variance where such sales are not allowed.
- B. **Signs** – A maximum of six (6) temporary signs shall be permitted with a maximum size of six (6) square feet. Signs shall be removed within 24 hours of completion of sale.

C. **Permits** – Household sales shall not be subject to permit requirements or fees.

D. **Exempt Sales** – All public or semi-public nonprofit organizations shall be exempt from the requirements of this section.

## § 609 – ROADSIDE STAND.

A. **Definition** - for the purpose of this Law, roadside stands shall be divided into two (2) types, general roadside stand and limited roadside stand, defined as follows:

- 1.) General Roadside Stand: Produce and products sold are not necessarily grown or produced on premises where stand is located.
- 2.) Limited Roadside Stand: All produce and products are grown or produced on the premises (parcels) where the stand is located and are sold only by the owner(s) of said premises.

### B. Regulations

- 1.) General Roadside Stand - Permitted by Special Use Permit in accordance with Article VIII Special Use Permit.
- 2.) Limited Roadside Stand - Permitted by Right in Section 302. However, if only one (1) product (e.g corn) is sold on a seasonal basis, then NO permit shall be required.
- 3.) All roadside stands shall comply with the following:
  - a.) Safe entry and exit
  - b.) Sufficient off-street parking to meet peak demand
  - c.) Hours of operation which are compatible with the neighborhood

## § 610 – SOLAR ENERGY SYSTEMS.

A. **Purpose** - The Town Board of the Town of Hanover, exercising the authority granted to it under the Town Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Town of Hanover, does hereby desire to enact this Local Law to regulate the construction, maintenance, and placement of solar energy systems and equipment in the Town of Hanover. The purpose of this legislation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of the property owners to install solar collection systems without excess regulation. The Town of Hanover recognizes the importance of solar systems in generating electricity

for on-premises and off-premises use, the reduction of greenhouse gas emissions, and support for emerging solar system economic development.

**B. Authority** - The Town Board of the Town of Hanover enacting this legislation intends to use the authority granted to it under the Town Law of the State of New York, the General Municipal Law of the State of New York, and the Municipal Home Rule Law of the State of New York together with other general state statutes permitting Towns to enact legislation to protect the health, safety and welfare of the residents and property owners of the Town of Hanover.

### **C. Definitions**

*Building-Integrated Photovoltaic (BIPV)* - A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

*Collective Solar* - Solar installations owned collectively through subdivision homeowner associations, college student groups, “adopt-a-solar panel” programs, similar arrangements or commercial entities. Collective solar systems and installations shall be subject to rules and regulations herein based upon generation capacity.

*Ground-Mounted System* - A Solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

*Large-Scale System* - Solar energy systems located on land in the Town of Hanover used primarily to convert solar energy into electricity for off-site consumption or sale, and/or systems that have the capacity to produce 25KW per hour, or more, of energy.

*Net-Metering* - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

*Roof-Mounted System* - A solar power system in which solar panels are mounted on top of the structure of a roof, either as a flush-mounted system or as modules fixed to frames, which can be tilted toward the sun at an optimal angle. Roof-mounted systems shall be located on a roof of a permitted principal use or accessory structure.

*Small-Scale Solar* - Small-scale solar means a solar energy system installed and placed for the production of energy for consumption only on-site, and that has capacity to produce less than 25KW per hour of energy.

*Solar Easement* - An easement recorded pursuant to New York Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real



property of another for continued access to sunlight necessary to operate a solar collector.

*Solar Energy Equipment* - Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

*Solar Energy Production Facility* - Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

*Solar Energy System* - Includes a combination of both solar panels and solar energy equipment.

*Solar Panel* - A device capable of collecting and converting solar energy into electrical energy.

*Solar Storage Battery* - A device that stores energy from the sun and makes it available in an electrical form.

*Solar Thermal Systems* - Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

#### **D. Applicability**

- 1.) The requirements of this section shall apply to all solar energy systems installed or modified after the effective date of this local law, excluding general maintenance and repair.
- 2.) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the New York State Building Code and the Town Code, as well as National Electrical Code (NEC), and local regulations.
- 3.) Under state SEQRA regulations, actions are grouped as Type I, Type II or Unlisted Actions. Type II actions are exempt from review and include actions such as construction expansion, or placement of minor accessory structures. The Town of Hanover considers building-integrated solar components and small-scale systems to be Type II Actions and therefore exempt them from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large-scale and solar production facilities that meet the thresholds contained in the SEQRA regulations are considered more likely than others to have a significant adverse environmental impact and shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the

permitting board in accordance with the significance of the potential adverse environmental impact.

#### **E. Solar as an Accessory Use**

- 1.) Roof-Mounted Systems - Residential, small-scale roof mounted solar systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal structures and accessory structures, subject to the requirements set forth in this section.
  - a.) Height - Solar energy systems shall not exceed maximum height restrictions within the underlying zoning district, and are provided the same height exemptions granted to building-mounted mechanical devices or equipment.
  - b.) Setback - Solar energy systems are subject to the setback requirements of the underlying zoning district.
  - c.) Aesthetics - Solar installations shall incorporate the following design requirements:
    - (1) Solar energy equipment shall be installed inside walls and attic spaces when possible to reduce their visual impact. If solar energy equipment is visible from a public right of way, it should match the color scheme of the underlying structure.
    - (2) Roof-mounted panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
- 2.) Ground-Mounted Systems - Residential, small-scale ground-mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.
  - a.) All ground-mounted solar panels in residential districts shall be installed in the rear yard. If a side yard installation is applied for, it shall require site-plan review by the Town of Hanover Planning Board.
  - b.) Setback - Ground-mounted solar panels are subject to setback requirements of the underlying zoning district and those set forth as follows; whichever is more restrictive:
    - Setback from the public right-of-way, two hundred (200) feet
    - Side yard setback, fifty (50) feet

- Rear yard setback, fifty (50) feet
- All setbacks determined from the nearest property line

There shall also be required a minimum fifty (50) foot setback from any other residential structure.

The applicant shall be required to install a solid or opaque fence to block the sun's reflection from solar panels to adjoining properties. Height of said fence, however, to comply with the then prevailing district regulation.

The required setback distance must be at least one and one half times the height of the ground-mounted solar panel.

- c.) Lot Coverage - The surface area of ground-mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed thirty (30%) of the lot size.

### 3.) Small-Scale Solar Energy System

- a.) Any application for installation and placement of a small-scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.
- b.) The site plan for such installation shall be reviewed by the Planning Board of the Town of Hanover, and approval of the site plan for the placement in a side yard by affirmative vote of a majority vote of the Planning Board of the Town of Hanover is required.

## **F. Solar as a Principle Use**

- 1.) Large-Scale Solar System - Large-scale solar systems are permitted only by the issuance of a special-use permit as recited herein, and only within the following Zoning Districts: Industrial District; on the south side of Routes 5 and 20 in the Business district; and Agricultural/Residential District. All such applications shall be before the Town Board, and require an affirmative majority vote of the whole.

In addition to the requirements set forth in those zoning districts, the following shall also apply:

- a.) Height And Setback - Large Scale Solar Energy Systems shall comply with all bulk area requirements including height and set back of the underlying zoning

district, together with the following bulk area requirements and set back, whichever is more restrictive. In addition, such other restrictions on placement, height, location, and set back and/or buffers may be imposed during this special permit process.

Each and every part and/or section of the Solar Energy System shall be setback the following minimums:

- (1) Five hundred (500) feet from the edge of public right-of-way
  - (2) Two hundred (200) feet rear setback from the rear property line
  - (3) Two hundred (200) feet from each side yard property line
  - (4) At least fifty (50) feet from any structure on the premises hosting the Solar Energy System
  - (5) No part of the Solar Energy System and its components shall exceed thirty (30) feet in height.
- b.) Lot Coverage – the surface area of the Solar Energy System including but not limited to solar panels, utility or electric sheds, and any other part of the system, shall be included in Lot Coverage together with any impervious service calculations, all of which shall not exceed fifty percent (50%) of lot size coverage of the premises which is the subject of the application.
- c.) Large-scale systems shall be located on lots with a minimum lot size that is large enough to accommodate the proposed system and still meet the required setback requirements stated herein.
- No large-scale system will be permitted to be located on multiple parcels. In this case, the system would only be permitted if the parcels were combined and retired by deed.
- d.) All large-scale solar energy systems shall be enclosed by fencing to prevent unauthorized access, together with solid or opaque fence to protect adjoining properties and/or users of the public right-of-way from sun or light reflection and/or interference. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the special-use permit process.
- e.) On-site electrical interconnection lines and distribution lines shall be placed underground unless otherwise required by the utility.

- f.) The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar installation.
- 2.) Special-Use Permit Requirements - Every application for a Special-Use Permit under this section shall contain the following material:
- a.) Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
  - b.) Name, address, and contact information of the applicant, property owners, and agent submitting the proposed project.
  - c.) If the property of the proposed project is to be leased, legal consent by all parties, specifying the use(s) of the land.
  - d.) Site Plan - Every applicant shall first submit the site plan to the local office of the Federal Aviation Administration (FAA) for their review. If no objections are found by the FAA, proof given in written form, the site plan shall then go before the Town Board of the Town of Hanover for approval and issuance of the permit. Every application for a Large-Scale solar energy system within the Town of Hanover shall be made to the Town Board of the Town of Hanover, and shall be approved by majority vote of the Town Board. Prior to the Town Board review of the application, the Town Board of the Town of Hanover may refer said application to the Planning Board of the Town of Hanover for the site plan review, report, and recommendation for approval or disapproval by the Planning Board to the Town Board. A Public Hearing, upon ten days' notice duly posted and published in the official newspaper of the Town and on the Town bulletin board, shall be held by the Town Board of the Town of Hanover before the granting of any such special use permit described hereunder. The Town Board of the Town of Hanover hereby reserves the right to delegate, to the Planning Board of the Town of Hanover, the Public Hearing requirement, and if so, such Public Hearing shall be held by and before the Planning Board of the Town of Hanover.
  - e.) Blueprints signed by a New York State licensed Engineer or registered Architect of the solar installation showing the layout of the system, together with fire access roads or ways.
  - f.) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.

- g.) Property Operation and Maintenance Plan - A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, and etc.

### 3.) Decommissioning Plan

- a.) To ensure the proper removal of large-scale systems, a decommissioning plan, provided by the applicant, shall be required. The plan shall include the removal of all infrastructures and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimations shall take into account inflation.
  - b.) A form of Surety, Surety Bond, Fidelity Bond, escrow, or the equivalent thereof, shall be established by the Town Board as part of the permitting process and funded prior to the granting of a permit, to cover the cost of decommissioning the site in accordance with the decommissioning plan which shall have been approved by the Town Board prior to the granting of a special use permit for the Solar Installation. The amount of the Surety Bond, Performance Bond, or escrow required by the municipality may not exceed one hundred and twenty-five percent (125%) of the estimated cost to decommission as recited in said plan, taking into account the estimated life of the Solar Energy System Project being presented for approval and inflation. Any escrow provided shall be held by the Town Clerk in a separate account. The surety provided, whether by escrow, surety or fidelity bond shall remain in full force and effect for the duration of the Solar Project permitted, and the existence of said systems on the ground until removed. Failure to maintain the surety required as part of the issuance of the permit shall be grounds for revoking the permit for the Solar Energy System.
- 4.) Variance Provision - The Town Board of the Town of Hanover reserves to itself the right to consider and grant variances from the requirements under Subsection F. Solar as Principal Use, all for good cause shown, as determined by the Town Board of the Town of Hanover after a Public Hearing.

### **G. Solar Storage Batteries**

- 1.) If solar storage batteries are included as part of the Solar Energy Collection System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code. All solar storage batteries, their maintenance, placement, and location shall also comply with all applicable rules and regulations as promulgated by the New York State Building Code, and the National Electric Code.

- 2.) When batteries are no longer in use, they shall be properly disposed of in accordance with the laws of the State of New York, and any applicable Federal or Local disposal rules or regulations.
- 3.) The application for Solar Energy System shall specifically recite the use or nonuse of Solar Storage Batteries, their placement, capacity, and compliance with then existing national and state code requirements. The decommissioning plan must specifically address the useful life span of the Solar Storage Batteries proposed, the current State and Federal rules and regulations regarding placement thereof and disposal thereof at the end of their useful life span, together with replacement if anticipated. The financial surety required by the Town shall take into account maintenance, replacement, and disposal of Solar Storage Batteries if part of the application for a Solar Energy Collection System permit.

#### **H. Violations**

- 1.) Any violation of any provision of this Local Law shall be punishable by penalty or a term of imprisonment as prescribed in Section 268 of the Town Law of the State of New York State Law.
- 2.) II. Notwithstanding the above, the Town Board of the Town of Hanover hereby reserves the right to proceed to enforce the provisions of this Local Law by civil action, injunction, and any other remedy afforded to it under the laws of the State of New York or the United States.

**I. Validity** - If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances.

**J. Fee Schedule** - The Town Board of the Town of Hanover is authorized to adopt a fee schedule for application and permit fees for solar installations under this Local Law. The fee schedule to be adopted by the Town Board of the Town of Hanover, which fee schedule may be amended by the Town Board of the Town of Hanover from time to time, shall be by Town Board resolution.

### **§ 611 – LARGE GROUP GATHERINGS.**

**A. Definition** – Any gathering of 500 or more people occurring on a non-regular basis (example: concert).

- B. Conditions** – Prior to the granting of a Special Use Permit, the following will be taken into consideration: (1) traffic safety and parking access; (2) noise; (3) health and sanitation; (4) character of neighborhood-development density; (5) beverages to be served; (6) security and traffic control; (7) cleanup and restoration of land; (8) other appropriate considerations.
- C. Sponsor Responsibility** – The sponsor of any large group gathering shall be responsible for compliance with any conditions which are specifically imposed as well as the overall conduct of the gathering.

## § 612 – HOME OCCUPATIONS / BUSINESSES.

### A. Definitions

*Home Occupation, Minor* – A business, profession or craft conducted for gain or support and conducted entirely within a portion of a single-family dwelling unit by one or more of the residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which meets all applicable requirements of these regulations for such use.

*Home Occupation, Major* – A business, profession or craft conducted for gain or support and conducted entirely within a portion of a single-family dwelling unit or accessory structure to the dwelling, by one or more of the residents of the dwelling and up to two (2) nonresident employees, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes; which does not change the character thereof; which is not classified as a “Minor Home Occupation” under this law; and which meets all applicable requirements of these regulations for such use.

*Home Business* – A business, profession, occupation or trade conducted for gain or support, other than a home occupation as defined herein, conducted within or on the same lot as an occupied single-family dwelling by the inhabitants thereof. The home business may involve the provision of services or the manufacture and/or sale of goods on the premise.

### B. Home Occupations / Home Businesses

- 1.) Purpose – The standards and regulations of this section are designed to protect and maintain the character of residential and rural areas of the Town while recognizing that certain professional and trade activities may, on a limited scale, be acceptable accessory uses.
- 2.) Permitted Locations:



- a.) Home Occupation, Minor – Minor home occupations are permitted as an accessory use to a dwelling unit in all districts, if they meet all relevant conditions listed in subsection C for such use.
- b.) Home Occupation, Major – Major home occupations may be permitted as an accessory use, by special use permit, to a dwelling unit in the Agriculture/Residential Districts (AR-1 & AR-2), Business Districts (B-1 & B-2) and Industrial District, if they meet all relevant conditions listed in subsection C for such use.
- c.) Home Business – Home businesses, as previously defined, may be permitted as an accessory use, by special use permit and site plan review, to a dwelling unit in the Agriculture/Residential (AR-1) District, Business District (B-1) and Industrial District, if they meet all relevant conditions listed in subsection C for such use.

**C. Conditions:**

- 1.) Home Occupation, Minor – In addition to all of the limitations applicable to the district in which it is located, no minor home occupation shall be permitted unless it complies with the following restrictions:
  - a.) No more than one (1) minor home occupation shall be permitted for each property.
  - b.) Not to exceed 25% of the square footage of dwelling and occupation shall be carried on entirely within the dwelling.
  - c.) Evidence of use and maintenance of residential character – The appearance of the structure shall not be altered and the occupation within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character by the use of lighting, or the emission of noises, odors or vibrations, or other means. No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residence shall be used. No outdoor display of goods or outside storage of equipment or materials used in the home occupation or profession shall be permitted.
  - d.) Employees on Site – No employees other than the residents of the property shall be employed on site. No other partner, principal or professional may be employed on site.
  - e.) Number of Clients – The home occupation shall be conducted in such a manner that at any time the maximum number of clients, customers and others at the site of the home occupation is not greater than two (2) persons.

- f.) Hours of Operation – The home occupation shall be conducted in such a manner that all the deliveries, clients, customers and others coming to do business at the site of the home occupation, shall arrive and depart between the hours of 7:00 a.m. and 8:00 p.m.
  - g.) Signage – One unanimated, non-illuminated flat wall sign, not to exceed three (3) square feet in area, shall be permitted to identify the home occupation.
  - h.) Parking – Parking shall be provided off-street and shall not be located in front yards.
  - i.) Commercial Vehicles – Not more than one (1) commercial vehicle, with a maximum gross vehicle weight of less than 7,000 pounds, shall be permitted in connection with any minor home occupation and such vehicle shall be parked in the driveway or stored in an enclosed garage. No construction vehicles, construction equipment, or heavy vehicles may be used in connection with a minor home occupation.
  - j.) If the business requires that clients or customers do visit the home occupation, the site shall meet all New York State Uniform Fire and Building Codes.
- 2.) Home Occupation, Major – In addition to all of the limitations applicable to the district in which it is located, no major home occupation shall be permitted unless it complies with the following restrictions:
- a.) Major home occupations cannot exceed 25% of the habitable space of the principal dwelling and must remain incidental to the residential use.
  - b.) Only one accessory structure may be used for a home occupation. New accessory structures built for the purpose of a major home occupation shall not be greater than 2,000 square feet, or the square footage of the principal dwelling, whichever is less. No more than 2,000 square feet of an existing accessory structure may be used for a major home occupation.
  - c.) Evidence of use and maintenance of residential character – The appearance of the structure shall not be altered and the occupation within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character by the use of lighting, or the emission of noises, odors or vibrations, or other means. No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residence shall be used. No outdoor display of goods or outside storage of equipment or materials used in the home occupation or profession shall be permitted.

- d.) A minimum lot size of two (2) acres is required for the purposes of operating a major home occupation.
- e.) Required Procedures – Special use permit approval is required by the Town Planning Board.
- f.) Employees on Site – No more than two (2) employees or assistants in addition to the members of the family occupying such dwelling may be engaged on the premises in the home occupation at any given time. One other partner, principal or professional may be employed on site.
- g.) Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be permitted.
- h.) Outdoor Storage – Materials and equipment actively used in connection with the home occupation shall be stored indoors to the greatest extent practicable. Where such storage cannot be reasonably provided, the materials and equipment shall be screened from public rights-of-way and neighboring properties and stored in a manner such that they do not pose a nuisance to adjacent property owners. No outdoor storage of materials or equipment shall be permitted in the front yard of the premises or less than twenty (20) feet from any property boundary.
- i.) Commercial Vehicles and Construction Equipment - Not more than two (2) commercial vehicles may be used in connection with the home occupation.
- j.) Heavy Vehicles and Construction Equipment – No more than one (1) heavy vehicle (with a maximum 18,000 lb. gross vehicle weight) used in connection with the home occupation may be stored outside. No such vehicles shall be parked in the required front yard or side yards (within 10 feet of side lot lines) of the property. Additional heavy equipment may be stored in an enclosed garage.
- k.) Signage – One sign, not to exceed three (3) square feet in area, shall be permitted to identify the home occupation. This sign may not be animated and may be illuminated only during business hours.
- l.) Parking – Any need for parking generated by the home occupation shall not include any vehicle over 18,000 lb. gross vehicle weight and shall be provide off-street.
- m.)Number of Clients – The home occupation shall be conducted in such a manner that at any one (1) time the maximum number of clients, customers and others at the site of the home occupation is not greater than four (4) persons.
- n.) Hours of Operation – The home occupation shall be conducted in such a manner that the majority of the deliveries, pickups, clients, customers and others coming

to do business at the site of the home occupation, shall arrive and depart between the hours of 7:00 a.m. and 8:00 p.m.

- 3.) Home Business – In addition to all of the limitations applicable to the district in which it is located, no home business shall be permitted unless it complies with the following restrictions:
  - a.) Home based businesses are permitted within a single-dwelling unit, or in a building or structure accessory to a dwelling unit, with frontage along any State, County or Town Road that is not designated for “seasonal use.” No more than one (1) home based business shall be permitted on each property.
  - b.) Lot Size – The minimum required lot size for a home-based business is five (5) acres.
  - c.) Extent of Use – The total gross floor area of the home-based business in an accessory building shall not exceed five thousand (5,000) square feet in area.
  - d.) Neighborhood Character – The appearance of the property shall not be altered and the occupation within the residence shall not be conducted in a manner that would cause the premises to differ significantly from other properties in the neighborhood either by the use of lighting or by the emission of noises, odors or vibrations, or other means. All accessory buildings shall be of a building type that is consistent with the appearance of the principal dwelling and the surrounding area or neighborhood.
  - e.) Employees on Site – No more than four (4) employees or assistants in addition to the members of the family occupying such dwelling may be engaged on the premises in the home based business at any given time. One other partner, principal or professional may be employed on site.
  - f.) Hours of Operation – The home based business shall be conducted in such a manner that the majority of the clients, customers and others coming to do business at the site of the home based business, shall arrive and depart between the hours of 7:00 a.m. and 8:00 p.m.
  - g.) Outdoor Storage – Materials and equipment actively used in connection with the home based business shall be stored outdoors shall be screened from public rights-of-way and neighboring properties by intervening landform and/or vegetation or fencing through all seasons of the year and stored in a manner such that they do not pose a nuisance to adjacent property owners. No outdoor storage of materials or equipment shall be permitted in the front yard of the premises or less than fifty (20) feet from any property boundary.

- h.) Commercial Vehicles – Not more than four (4) commercial vehicles may be used in connection with the home-based business. No such vehicles shall be parked in the required front or side yards of the property.
- i.) Construction Vehicles and Equipment – Not more than four (4) construction vehicles or pieces of construction equipment may be used in connection with the home based business. No such vehicles shall be parked in the required front or side yards of the property. Additional construction vehicles may park in an enclosed structure.
- j.) Heavy Vehicles GVW over 18,000 lb. – No more than two (2) heavy vehicles used in connection with the home-based business may be stored outside. No such vehicles shall be parked in the required front or side yards of the property. Additional heavy vehicles may be parked in an enclosed structure.
- k.) Signage – One sign, not to exceed ten (10) square feet in area per side, shall be permitted to identify the home-based business. No sign shall have more than two printed sides. This sign may not be animated and may be illuminated only during business hours.
- l.) Parking – The need for parking generated by the home based business shall be met on-site and not in the required front yard. Off-street parking, turnarounds, and loading spaces shall be provided as required in these regulations. The off-street parking for the home-based business shall be in addition to the parking required for the residence.
- m.) Deliveries and Shipping – No more than ten (10) pickups or deliveries per week, other than regular mail, commercial mail service and overnight delivery service, shall be permitted. All pickups and deliveries shall occur between the hours of 7:00 a.m. and 8:00 p.m.

#### **D. Prohibited Uses**

- 1.) The following types of businesses shall not be considered to be a home occupation: motor vehicle repair; motor vehicle, boat, and manufactured homes sales and rental (where vehicles, boats or manufactured homes are present on site); fuel outlets (including gas stations and mini-marts); drive-in businesses; scrap and salvage material storage and sales (including junkyards); laundries and dry-cleaning establishments; recreation, entertainment, or amusement enterprises (including adult entertainment or other adult uses); restaurants and tearooms, tourist homes and bed and breakfast establishments; biological and medical testing laboratories, clinics, hospitals, and convalescent homes; funeral homes; kennels, stables, animal hospital and veterinarian offices; and building supply and farm equipment stores.

- 2.) The following type of businesses shall not be considered to be a home business: motor vehicle repair; motor vehicle, boat, and manufactured home sales and rental (where vehicles, boats or manufactured homes are present on site); fuel outlets (including gas stations and mini-marts); drive-in businesses; scrap and salvage material storage and sales (including junkyards); laundries and dry-cleaning establishments; recreation, entertainment, or amusement enterprises (including adult entertainment or other adult uses; restaurants and tearooms; tourists homes and bed and breakfast establishments; biological or medical testing laboratories, clinics, hospitals and convalescent homes, funeral homes; animal hospitals and veterinarian offices; and building supply and farm equipment stores. Yard sales, garage sales and any similar type of sales exceeding four (4) consecutive weeks shall be considered to be a home business and subject to the provisions therefore.

**E. Limitations or Thresholds** – Recognizing that the primary purpose of residential and agricultural districts is not the accommodation of business uses, the burden of proof in demonstrating compliance with these regulations in order to develop and maintain a home occupation shall be upon the applicant.

## § 613 – HAMLET OF FORESTVILLE DESIGN GUIDELINES.

**A. Purposes** - To promote development in the Hamlet of Forestville that will preserve and promote the traditional character found in the hamlet. Among the goals of the standards are to preserve existing architecture, create a more pedestrian-oriented environment, limit reliance on automobiles, and enhance the beauty of the hamlet.

**B. Applicability** - The following actions in the B-2 District shall be subject to and comply with this Section.

- 1.) Any action that requires a building permit and involves changes to the front, rear, or, where visible, the side facade of a building;
- 2.) Any action that involves the alteration of a parking lot; and
- 3.) Any action that requires site plan review.

This section will also serve as a guide for any public improvements within the hamlet.

### **C. Standards**

1.) Design Elements.

- a.) New development should be designed so as to be compatible with the general character of buildings on the street frontage. The setback, height, bulk, gable and pitch of roofs, use of porches, shutters and other exterior design elements should result in an overall design that complements the existing character of the streetscape. The adaptive reuse of existing structures is encouraged.

- b.) The primary entrances to any building should be oriented to the lot frontage. Secondary entrances should be oriented to parking, plazas or parks.
  - c.) Setbacks of new structures in a hamlet district shall match those of adjacent structures to ensure consistency with existing development.
  - d.) All new buildings shall front to the street.
  - e.) No trademarked architecture shall be allowed.
  - f.) All HVAC, stacks, pipes, and other utility structures shall be thoroughly screened from view from the street and from adjacent properties.
- 2.) Landscaping and Public Amenities – The incorporation of small, landscaped yards is encouraged with any new development (if building is not built to the sidewalk edge). The development of public parks, commons, or small pedestrian plazas with amenities such as benches and landscaping is encouraged and may be required by the Planning Board when reviewing new development. Where practicable, existing tree rows and hedgerows, stone walls, and similar features shall be retained in the development of any new use or the alteration of any existing use.
- 3.) Street Trees – Street trees play an essential role in enhancing the character of the hamlet, while providing many other benefits. Maximum effort should be made to save existing mature vegetation, and the Planning Board may require the planting of new street trees as part of any new development. Tree species selected for planting shall be native and appropriate for the local climate. Within two years from the time of planting, the developer shall replace all dead or dying plants that were newly planted.
- 4.) Streets and Sidewalks – All new structures shall require construction of a minimum of five-foot wide sidewalks. The Planning Board may require the repair or enhancement of existing sidewalk as part of any new development. The following additional provisions apply:
- a.) Sidewalks shall be separated from vehicular traffic lanes by vegetated strips or planters.
  - b.) Restaurant uses shall be permitted to operate outdoor cafés on sidewalks and in courtyards, provided that pedestrian circulation and access to store entrances shall not be impaired.
  - c.) Commercial uses shall be permitted to have sidewalk displays of retail merchandise directly in front of the establishment, provided that at least five feet of clearance is maintained at the storefront entrance.
- 5.) Off-Street Parking – All off-street parking and loading requirements of § 504 shall be met. In order to limit the amount of land area occupied by parking, the Planning

Board may offer flexibility in the application of off-street parking requirements. In addition, the following standards shall be incorporated into the design of new off-street parking:

- a.) All parking shall be placed to the side or rear of the principal building.
  - b.) Parking areas shall be buffered and screened from the street by a building (if to the rear), or vegetation (if to the side). There shall be no direct views of parked vehicles from streets although such screening shall not impede sight distances for vehicles and pedestrians.
  - c.) Bicycle parking facilities shall be considered.
- 6.) Residences shall not be allowed on the first floor of any building in the B-2 district.
- 7.) Building Footprint – With the exception of mixed-use structures, no single building should have a building footprint exceeding 4,500 square feet.
- 8.) Lighting – See §506 – Signs, subsection D.4.

**D. Planning Board Review** – All new uses in the B-2 district will require site plan review by the Town Planning Board, subject to the requirements of Article IX Site Plan Review and Approval. In review of site plans, the Planning Board shall consider the style and scale of the structure, its dominant architectural features, such as roof pitch and outline, porches, number and style of windows and door openings, and the color and texture of building materials. The Planning Board shall require such plans, specifications, details of construction, and samples of materials, as it may deem necessary in its decision making. Approval of plans shall be made only after the Planning Board has determined that the proposed development will retain, to the maximum extent practicable, the scale, style and treatment of existing structures within the district. The basis for decisions of the Planning Board under this section shall be documented in any resolutions passed by the Planning Board and reflected in the meeting minutes.

## **§ 614 – AGGREGATE MINING.**

Use of property for Quarries/Gravel Pits/Sand Pits, as listed in the Town of Hanover Use Table, shall include mining, loading and hauling of sand, gravel, topsoil or other aggregate, but not include equipment, buildings or structures for screening, crushing, mixing, washing or storage, except as may be specifically authorized for a limited period of time.

## **§ 615 – PRIVATE CAMPS.**



Private recreational areas or camps may only be allowed by Special Use Permit in the A-1 and I districts when the application is accompanied by plans approved by the New York State Department of Health for sanitary disposal of sewage.

### **§ 616 – LIGHT INDUSTRY.**

Light Industry usually denotes contemporary one (1) or two story buildings, attractively landscaped, rarely exhibiting the industrial process they house. By definition, the manufacture, preparation, processing, milling or repair of any article, substance, commodity, and which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisances incidental to the productions and processing shall be limited to a level which does not effect the uses or enjoyments of property outside of the light industry classified area.

### **§ 617 – OTHER BUSINESS USES.**

Other like and similar business and retail uses not specifically listed in § 301 as either a use permitted by right, or a use permitted by special use permitted, shall be permitted provided it is determined by interpretation of the Code Enforcement Officer of the Town of Hanover that such use is a like and similar business or retail use compatible with other like and similar uses permitted in this zone as either by right or by special use permit. Such like or similar uses, if found, shall comply with all standards, rules, and regulations for the B-1 District.

Notwithstanding any reference to use permitted by right, a use under this section, if so found, shall be treated as a use permitted by special use permit.

The determination of the Code Enforcement Officer of a like and similar use under this subparagraph is deemed to be an interpretation of the Zoning Law of the Town of Hanover by said Code Enforcement Officer, and as such, such interpretation is subject to appeal as provided in the Zoning Law of the Town of Hanover to the Zoning Board of Appeals.



# ARTICLE VII – NON-CONFORMING BUILDINGS, USES & LOTS

## **§ 701 – CONTINUANCE OF USE.**

Any lawfully established use of a building, structure or land, at the effective date of this Law or of amendments thereto, that does not conform to the provisions of this chapter, shall be deemed to be a legal non-conforming use and may be continued, except as otherwise provided herein.

Any legal non-conforming building or structure may be continued in use provided there is not physical change other than necessary maintenance and repair except as otherwise permitted herein.

Any building for which a permit has been lawfully granted prior to the effective date of the Law, or of amendments thereof, may be completed in accordance with the approved plans; provided construction is started within ninety (90) days and diligently prosecuted to completion. Such building shall hereafter be deemed a lawfully established building.

## **§ 702 – DISCONTINUANCE OF USE.**

- A. Whenever any building, structure or land used for or occupied by a non-conforming use, which is changed to or replaced by a conforming use, shall not thereafter be used for or occupied by a non-conforming use.
- B. The discontinuance of any nonconforming use for a period of more than twelve (12) consecutive months shall terminate the non-conforming status of that use. A non-conforming use so terminated shall thereafter only be replaced by a conforming, permitted use.

## **§ 703 – CHANGE OF NON-CONFORMING USE.**

The non-conforming use of any building or portion thereof, which is designed or intended for a use not permitted in the district in which it is located, may be changed to another non-conforming use thereof but only if such use is permitted by Special use Permit.

## **§ 704 – TERMINATION AND REMOVAL OF NON-CONFORMING USES AND BUILDINGS.**

The period of time during which the following non-conforming uses of buildings, structures or land may continue or remain in all districts shall be limited to two (2) years from the effective date of this Law or of any amendment thereto which causes the use to be non-conforming. Every such non-conforming use shall be completely removed from the premises at the expiration of the two (2) year period.

- A. Any non-conforming use with a building or structure having an assessed valuation not in excess of five hundred and no/100 dollars (\$500.00) on the effective date of this Law.
- B. All non-conforming signs, billboards, and outdoor advertising structures.
- C. Any non-conforming use of land where no enclosed building is involved; or where only buildings employed are accessory or incidental to such use or where such use is maintained in connection with a conforming building.

## **§ 705 – REPAIRS AND ALTERATONS.**

- A. Normal maintenance of a building or other structure containing a non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.
- B. No structural alterations shall be made in a building or other structure containing a non-conforming use, except in the following situations:
  - 1.) When the alteration is required by law.
  - 2.) When the alteration will actually result in eliminating the non-conforming use.
  - 3.) When a building containing residential non-conforming use may be altered in any way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.
  - 4.) A non-conforming light industrial use can be altered by an alteration of not more than fifty percent (50%) of the lot size for building, parking and plant facilities in the A-1 district.

## **§ 706 – DAMAGE AND DESTRUCTION.**

If a building or other structure containing a non-conforming use is damaged or destroyed by any means to the extent of fifty percent (50%) or more of its replacement value at that time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district. In the event the damage is less than fifty percent (50%) of its replacement value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building may be

continued which existed at the time of such partial destruction. In either event, restoration started within a period of six (6) months from the date of damage or destruction and diligently prosecuted to completion.

## **§ 707 – ADDITIONS AND ENLARGEMENTS.**

- A.** [Excepting herein above set forth in Section 705(b) (4)] A non-conforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use and is made to conform to all the regulations of the district in which it is located.
- B.** No building partially occupied by a non-conforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such non-conforming use.
- C.** No non-conforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed at the effective date of this Law, or to displace any conforming use in the same manner or on the same parcel.
- D.** A building or structure which is non-conforming with respect to yards, floor area ratio, or any other element of bulk regulations by this Law, shall not be altered or expanded in any manner which would increase the degree or extent of its non-conformity use with respect to the bulk regulation for the district in which it is located.

## **§ 708 – EXEMPTED BUILDINGS, STRUCTURES AND USES.**

Whenever a lawfully existing building or other structure otherwise conforms to the use regulations of this Law, but is non-conforming only in the particular manner hereinafter specified, the building and use thereof shall be exempt from the requirements of § 704 – TERMINATION AND REMOVAL AND REPAIRS AND ALTERATIONS:

- A.** In any district, where a dwelling is non-conforming only as to the number of dwelling units it contains, provided no such building shall be altered in any way so as to increase the number of dwelling units therein.
- B.** In any district, where an established building, structure or use is non-conforming with respect to the standards prescribed in this Law for any of the following reasons:
  - 1.) Yards – Front, side rear or transitional
  - 2.) Off-street parking or loading
  - 3.) Lot area

4.) Building height

5.) Floor area

### **§ 709 – PRIOR APPROVED CONSTRUCTION.**

Any building for which a permit has been lawfully granted prior to the effective date of the Law, or of amendments thereof, may be completed in accordance with the approved plans; provided construction is started within ninety (90) days and diligently prosecuted to completion. Such building shall hereafter be deemed a lawfully established building.

### **§ 710 – REDUCTION IN LOT AREA.**

No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this Law.

### **§ 711 – DISTRICT BOUNDARY CHANGES.**

Whenever the boundaries of a district are changed by the Town of Hanover Town Board so that, under the regulations that apply in the changed area, a conforming use shall become a nonconforming use, all of the foregoing provisions of this Article shall apply to such nonconforming use.

### **§ 712 – CONVERSION TO SPECIAL USE.**

Any existing non-conforming use may be made a special use by the granting of a special use permit as authorized by Article VIII Special Use Permit.

## ARTICLE VIII – SPECIAL USE PERMIT

### § 801 – PURPOSE.

It is the policy of the Town of Hanover to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the rural character of the Town. Many uses are therefore permitted only upon issuance of a special permit by the Zoning Board of Appeals or Town Board, in order to ensure that these uses are appropriate to their surroundings and consistent with the purposes of this Local Law.

### § 802 – AUTHORIZATION TO GRANT OR DENY SPECIAL USES.

The Town Board of the Town of Hanover authorizes the Zoning Board of Appeals of the Town of Hanover, to hear and determine special use applications in accordance with the requirements set forth in this zoning law, except wherein the application is to be heard and determined by the Town Board as provided by either local law or state law.

The Town Board retains the power to grant special use permits for wireless telecommunication facilities, wind energy conversion systems, solar energy facilities and siting, and any other application wherein by local law or state law the Town Board is designated as the governing board for such applications.

### § 803 – APPLICATIONS FOR SPECIAL USE.

Any application for a Special Use Permit shall be made to the Zoning Board of Appeals or the Town Board in the manner prescribed by the Board. The application and required information shall be delivered to the Code Enforcement Officer.

- A. Informal Consultation** – Prior to submission of a formal application, applicants are encouraged to meet with the Code Enforcement Officer to review submission requirements. Applicants are also encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any issues early in the application process.
- B. Environmental Review** - Where applicable, the application must include the appropriate Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act, Part 617 (SEQRA). No application shall be deemed complete until the action has been classified as a Type II Action, a Determination of No Significance has been made, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.

- C. **Expenses** – The Zoning Board of Appeals may also incur other extraordinary expenses to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Zoning Board of Appeals for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a Special Use Permit application. All reasonable fees shall be charged to the applicant.
- D. **Fees** – Fees for the Special Use Permit application shall be in accordance with any fees established by the Town of Hanover.

## §804 – PROCEDURES.

- A. **Coordination with Site Plan** –Special Use Permit and Site Plan Review shall be conducted sequentially by the Zoning Board of Appeals and Planning Board, respectively. All procedural and submission requirements shall be coordinated so as not to delay review and decision making. To facilitate this coordination, any required information from Article VII (Site Plan Review) shall accompany the Special Use Permit application.
- B. **Area Variance** – Notwithstanding any provision of law to the contrary, where a proposed Special Use Permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article XI, without the necessity of a decision or determination by the Code Enforcement Officer.
- C. **Use Variance** – All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.
- D. **Public Hearing Required** – Within 62 days of receipt of an application which contains all the required submittals and deemed complete, the Zoning Board of Appeals shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five days prior to the date set for public hearing. The Zoning Board of Appeals shall send, or cause to be sent, notice of the Public Hearing to abutting property owners and those agricultural operators identified on an Agriculture Data Statement as may be required, by certified mail, return receipt requested at least seven days prior to the public hearing.
- E. **Notice to Applicant and Chautauqua County Planning Board** – At least ten days before such hearing, the Zoning Board of Appeals shall mail such notices to the applicant and to the Chautauqua County Planning Board as required by Section 239-m of the General Municipal Law, which shall be accompanied by a full statement of such proposed action. The County referral shall apply to real property within 500 feet of the following:
  - 1.) The municipal boundary.



- 2.) The boundary of any existing or proposed county or state park or other recreation area.
- 3.) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
- 4.) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
- 5.) The existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
- 6.) The boundary of a farm operation located in an agricultural district, as defined by Article 25-aa of the Agriculture and Markets Law.

No action shall be taken on applications referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the county and Town agree to an extension beyond the thirty-day requirement for the County Planning Board's review.

- G. **SEQRA** – The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- H. **Other Agency Review** – In its review, the Zoning Board of Appeals may consult with an engineer, attorney, surveyor, or land use/environmental planner and other Town and county officials and boards, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers, the Adirondack Park Agency, or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be borne by the applicant as per this section.
- I. **Permits Required** - The Zoning Board of Appeals shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Zoning Board of Appeals may approve a Special Use Permit application contingent upon final approval of such application by other agencies. The Code Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Zoning Board of Appeals are met prior to issuing a zoning and Building Permit. Such Zoning Permit shall be approved prior to the Code Enforcement Officer issuing a Building Permit.

**J. Decisions**

- 1.) Time of Decision – The Zoning Board of Appeals shall decide upon the Special Use Permit application within 62 days after the close of the public hearing, subject to

compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.

- 2.) Type of Decision – In rendering its decision, the Zoning Board of Appeals shall approve, disapprove or approve with modifications and conditions the Special Use Permit application. In authorizing the issuance of a Special Use Permit, the Zoning Board of Appeals has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said Special Use Permit, any such conditions must be met before issuance of permits by the Zoning Enforcement Officer.
- 3.) Filing – The decision of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
- 4.) A Special Use Permit shall be deemed to authorize only the particular special use or uses permitted. Once a Special Use Permit has been granted, it shall apply to the approved use on that parcel.

A special use permit issued hereunder is personal to the applicant to which it is granted. The special use permit does not run with the land. The special use permit shall terminate upon any change in ownership from the applicant obtaining the permit.

## **§ 805 – LAPSES AND EXPIRATION.**

Special Use Permits will expire if the applicant fails to obtain a Building Permit or fails to comply with the conditions of the Special Use Permit, unless other provisions are set forth by the Zoning Board of Appeals in connection with its approval, three years after approval. A Special Use Permit will expire if the special use or uses shall cease for more than one year for any reason. If a use subject to an approved Special Use Permit had been in continual operation, but has since lapsed in operation for more than 18 months between Zoning Board of Appeals approval and re-initiation of such use, the Zoning Board of Appeals shall require a review of such use prior to reinstatement to ensure that all original conditions of the Special Use Permit are still valid. In either case, the Zoning Board of Appeals may, after review, reinstate, or reinstate with conditions such lapsed use. Such Zoning Board of Appeals review shall be initiated through action by the Code Enforcement Officer.

## **§806 – EXISTING VIOLATION.**

No Special Use Permit shall be issued for a property in violation of this Zoning Law unless the granting of a Special Use Permit and Site Plan approval will result in the correction of the violation.

## **§807 – DEEMED TO BE CONFORMING.**

Any use for which a Special Use Permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the Special Use Permit shall affect only the lot, or portion thereof, which is the subject of the Special Use Permit application.

## **§808 – EXPANSION OF SPECIAL USE.**

The expansion of any special use shall require amendment and approval of the Special Use Permit by the Zoning Board of Appeals in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

## **§809 – FACTORS FOR CONSIDERATION.**

In authorizing the issuance of a Special Use Permit, the Zoning Board of Appeals shall take into consideration the public health, safety, and welfare of the community, the purposes of this Zoning Law and shall prescribe appropriate conditions and safeguards to ensure the proposed use's scale and intensity are compatible with adjoining properties, and with the natural and built environment and character in the area. The Zoning Board of Appeals shall ensure that the application will accomplish the following objectives:

- A. Location, arrangement, size, nature, intensity of operations, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible and consistent with the neighborhood in which it is located and with the rural and small town character of Hanover.
- B. It shall not allow any noise, glare, unsightliness, or other objectionable features that may adversely impact surrounding properties in the district pursuant to Article VI and VII.
- C. The proposed use shall not produce dust, smoke, vibration, emissions or discharges that are hazardous to persons, structures, or the environment.
- D. The proposed use shall protect natural environmental features.
- E. No proposed specially permitted use will negatively impact traffic and shall have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right.

- F.** The special use shall ensure accessibility by fire, police and emergency vehicles and such services shall have sufficient capacity to address any emergency related to such use.
- G.** The use shall be consistent with the requirements for Site Plan approval established in Article IX.
- H.** The special use shall not negatively impact historic or scenic features.
- I.** The special use may be required to meet specific requirements of Article IX.
- J.** The special use shall be in harmony with the orderly development of the district and shall not impair the value of other properties in that district.
- K.** The level of municipal and other services supporting the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.
- L.** The Zoning Board of Appeals shall impose additional conditions when approving a special use when deemed necessary to assure continued conformance with the standards and requirements of this Zoning Law. Such conditions shall be directly related and incidental to the proposed Special Use Permit. Further, these conditions shall be able to be responsibly monitored and enforced. The conditions imposed may be related to both structural design and operation of the use (including hours of operation) provided they ensure compatibility with the surrounding uses or to protect the resources of the Town.

# ARTICLE IX – SITE PLAN REVIEW AND APPROVAL

## **§901 – INTENT AND PURPOSE.**

Through Site Plan Review, it is the intent of this Zoning Law to promote the health, safety and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

## **§902 – AUTHORIZATION OF PLANNING BOARD TO REVIEW SITE PLANS.**

The Planning Board is hereby authorized to review and approve or disapprove Site Plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this Zoning Law.

## **§903 – APPLICABILITY AND DEFINITIONS.**

### **A. Applicability of Review Requirements**

All new land use activities identified in Table 301 and 302 of this Zoning Law as requiring Site Plan Review, and all uses requiring a Special Use Permit shall require Site Plan Review and approval pursuant to this Article before being undertaken, except the following:

- 1.) Construction of one- or two-family dwelling and ordinary accessory structures, and related land use activities.
- 2.) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Zoning Law.
- 3.) Ordinary repair or maintenance or interior alterations to existing structures or uses.
- 4.) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25 and have a cost value of less than \$15,000.
- 5.) The sale of agricultural produce and temporary structures related to sale of agricultural produce.

Any person uncertain of the applicability of this Zoning Law to a given land use activity may apply in writing to the Zoning Board of Appeals for a written jurisdictional determination.

- B. Special Use Permit** – Prior to the issuance of a Special Use Permit, the Zoning Officer shall require site plan approval by the Planning Board pursuant to this section. The Zoning Officer shall notify an applicant for a zoning permit where site plan approval is required.
  
- C. Effect on Existing Uses** – This Article does not apply to uses and structures which are lawfully in existence as of the date this Zoning Law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of 18 months or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this Zoning Law and fully constructed and completed within one year from the effective date of this Zoning Law.
  
- D. Relationship of This Law to Other Laws and Regulations** – This Article in no way affects the provisions or requirements of any other federal, state, or Zoning Law or regulations. Where this Zoning Law is in conflict with any other such law or regulation, the more restrictive shall apply.
  
- E. Definitions** – In addition to all definitions included in Article XV of this Zoning Law, the following definitions shall be used in association with a Site Plan Review process.
  - 1.) Family – a person or persons related to each other by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.
  
  - 2.) Land Use Activity – any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.
  
  - 3.) One Family Dwelling – a complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.
  
  - 4.) Shoreline – the mean high water mark of any lake, pond, river, or permanent stream.

- 5.) Structure – any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.
- 6.) Structure, Accessory – any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.
- 7.) Two Family Dwelling – two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs. Any term used in this Zoning Law which is not defined in this section shall carry its customary meaning unless the context otherwise dictates.

## **§904 – PROCEDURES.**

Applicants for Site Plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this Zoning Law.

**A. Sketch Plan** – A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal Site Plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his/her proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns, and to generally determine the information to be required on the Site Plan. In order to accomplish these objectives, the applicant shall provide the following:

- 1.) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.
- 2.) An area map showing the parcel under consideration for Site Plan Review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel.
- 3.) A topographic or contour map of adequate scale and detail to show site topography.

**B. Application Requirements** – An application for Site Plan approval shall be made in writing to the Chairman of the Planning Board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference

was held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

Site Plan checklist:

- 1.) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- 2.) North arrow, scale and date.
- 3.) Boundaries of the property plotted to scale.
- 4.) Existing watercourses.
- 5.) Grading and drainage plan, showing existing and proposed contours, rocky outcrops, depth to bedrock, soil characteristics, and watercourses.
- 6.) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
- 7.) Location, design and type of construction of all parking and truck loading areas, showing access and egress.
- 8.) Provision for pedestrian access.
- 9.) Location of outdoor storage, if any.
- 10.) Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- 11.) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- 12.) Description of the method of securing public water and location, design and construction materials of such facilities.
- 13.) Location of fire and other emergency zones, including the location of fire hydrants.
- 14.) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- 15.) Location, size and design and type of construction of all proposed signs.
- 16.) Location and proposed development of all buffer areas, including existing vegetative cover.
- 17.) Location and design of outdoor lighting facilities.



- 18.) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- 19.) General landscaping plan and planting schedule.
- 20.) An estimated project construction schedule.
- 21.) Record of application for and status of all necessary permits from other governmental bodies.
- 22.) Identification of any permits from other governmental bodies required for the project's execution.
- 23.) Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.
- 24.) Deed Restrictions.
- 25.) SEQR.

**C. Required Fee** – An application for Site Plan Review shall be accompanied by the required fee.

**D. Reimbursable Costs** – Cost incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed Site Plan shall be charged to the applicant.

## **§905 – REVIEW STANDARDS.**

**A. General Standards and Considerations** – The Planning Board's review of the Site Plan shall include, as appropriate, but is not limited to, the following general considerations:

- 1.) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- 2.) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
- 3.) Location, arrangement, appearance and sufficiency of off street parking, and loading.
- 4.) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- 5.) Adequacy of storm water and drainage facilities.

- 6.) Adequacy of water supply and sewage disposal facilities.
- 7.) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- 8.) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- 9.) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
- 10.) Overall impact on the neighborhood including compatibility of design consideration.

**B. Specific Standards and Considerations** – In addition to specific standards contained within Article VII of this Zoning Law, the following specific standards shall apply in conjunction with the subject uses or in the designated areas.

1.) Shoreline Standards and Considerations

- a.) All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.
- b.) No onsite sewage tile field or seepage pit shall be located within 100 feet of any shoreline and no septic or other holding tank shall be located within 50 feet of any shoreline, as measured from the normal high water mark of the water body.
- c.) Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system.
- d.) Any marina, boat service facility or any storage of petroleum products within 100 feet or reasonable setback as determined necessary by the Planning Board, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dyke shall be constructed in such manner so as to afford adequate protection.
- e.) Any paved or otherwise improved parking, loading, or service area within 100 feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

## §906 – PUBLIC HEARING AND PLANNING BOARD DECISION.

- A. Public Hearing** – The Planning Board shall conduct a public hearing on the Site Plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of application for Site Plan Review and shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town at least five days before the public hearing.
- B. Notice to Applicant and Chautauqua County Planning Board** – At least ten days before such hearing, the Planning Board shall mail such notices to the applicant and to the Chautauqua County Planning Board as required by Section 239-m of the General Municipal Law, which shall be accompanied by a full statement of such proposed action. The County referral shall apply to real property within 500 feet of the following:

- 1.) The municipal boundary.
- 2.) The boundary of any existing or proposed county or state park or other recreation area.
- 3.) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
- 4.) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
- 5.) The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated.
- 6.) The boundary of a farm operation located in an agricultural district, as defined by Article 25-aa of the Agriculture and Markets Law.

The Chautauqua County Planning Board shall have 30 days to review the full statement of the proposed action. If the County Planning Board fails to report within 30 days, the Planning Board may take final action on the proposed action without such report. However, any County Planning Board Report recommending modification or disapproval of a project and which is received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the Planning Board, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

- C. Planning Board Decision** – Within 62 days of receipt of the application for Site Plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the Site Plan. The time period in which the

planning board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- 1.) Approval – Upon approval of the Site Plan and 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 Site Plan and shall immediately file it, along with a written statement of approval, with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. A copy of the statement of approval shall also be shared with the Town Assessor and Zoning Officer.
- 2.) Approval with Modifications – The Planning Board may conditionally approve the final Site Plan. A copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met, and 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 Site Plan and shall immediately file it, along with a written statement of approval, with the Town Clerk . A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested. A copy of the statement of approval shall also be shared with the Town Assessor and Zoning Officer.
- 3.) Disapproval – Upon disapproval of the Site Plan the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

## **§907 – APPEAL OF PLANNING BOARD DECISION.**

Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the Town, may apply to the supreme court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

## **§908 – PERFORMANCE GUARANTEE.**

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined after consultation with the Planning Board Chairman, Code Enforcement Officer, and Town Attorney, and/or other appropriate town officer or consultant. Such performance guarantee may take the form of a cash deposit, or performance/payment bond running in favor of the Town.

## §909 – MISCELLANEOUS PROVISIONS.

- A. **Enforcement Officer** – The Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- B. **Integration of Procedures** – Whenever the circumstances of proposed development require compliance with this Zoning Law, with special permit requirements, and with any other Zoning Law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review with the procedural and submission requirements for such other compliance.
- C. **Enforcement** – Any person, corporation, partnership, association of other legal entity who violates any of the provisions of this Article shall be subject to all enforcement actions of Article X of this Zoning Law.



# ARTICLE X – ADMINISTRATION & ENFORCEMENT

## **§1001 – CODE ENFORCEMENT OFFICER.**

- A. Code Enforcement Officer** - The provisions of this chapter shall be administered and enforced by the Code Enforcement Officer (CEO), who shall issue building permits and zoning permits. No building permit, zoning permit or certificate of occupancy or other permit or license shall be issued by him or her if it would be in conflict with the provisions of this chapter, the Chapter of the Town of Hanover Code entitled “Building Construction,” or any other applicable local, state, or federal law or regulation.
- B. Appointment** – The Code Enforcement Officer shall be appointed by the Town Board.

## **§1002 – POWERS AND DUTIES.**

- A.** To receive and review for Zoning Law compliance, and for clerical completeness, all applications for a special use permit or site plan review pursuant to the provisions of this Zoning Law. If the Code Enforcement Officer determines that the application meets all requirements of the Zoning Law, the CEO shall forward the application to the Zoning Board of Appeals, Town Board or Planning Board for further review in accordance with the provisions of the Zoning Law and/or Land Subdivision Regulations. If the CEO finds that the application does not comply in one or more respects with the provisions of the Zoning Law, the CEO shall deny the application and notify the applicant that he/she may appeal the CEO's determination to the Zoning Board of Appeals in accordance with the provisions of Article XII of this Zoning Law.
- B.** Upon approval of any application by the Zoning Board of Appeals or Town Board for a special use permit, or Planning Board for a site plan approval, or for any other change in use requiring the issuance of a building permit, the CEO is authorized to issue a zoning permit without additional application by the project sponsor. A zoning permit is a document that acknowledges that a proposed use or structure complies with the Hanover Zoning Law or authorized variance thereof. Such zoning permit shall include all standards and conditions imposed by the Permitting Board.
- C.** To conduct inspections necessary to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law, and to request and inspect any records or documents authorized pursuant to the provisions of this Zoning Law.
- D.** To issue stop work orders, notices of violations and compliance orders, and to revoke permits issued pursuant to this Article in accordance with the provisions governing permit revocation.

- E.** To accept complaints of violations from citizens and public officials, to document and follow up on violations encountered during the course of inspections or through general observation in the community, to investigate potential violations, and where necessary in the discretion of the Town, to commence enforcement of the Zoning Law.
- F.** To issue orders pursuant to Section 1003 of this Zoning Law.
- G.** To issue orders pursuant to Section 1004 of this Zoning Law ("Violations").
- H.** To maintain records.
- I.** To collect fees set by the Town Board.
- J.** To pursue administrative and civil enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.
- K.** To consult with the Town Attorney about pursuing such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning Law.
- L.** To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Zoning Law.
- M.** Recordkeeping – The CEO shall keep permanent official records of all transactions and activities that he/she conducts and those conducted by members of his office, including records of:
  - 1.) All applications received, reviewed and approved or denied;
  - 2.) All plans, specifications and construction documents approved;
  - 3.) All zoning permits, temporary certificates, stop work orders, operating permits, and certificates of use issued;
  - 4.) All inspections and tests, including all third-party inspections and tests, required and performed;
  - 5.) All statements and reports issued and a master list of all reports to be received;
  - 6.) All complaints received;
  - 7.) All investigations conducted;
  - 8.) All other features and activities specified in or contemplated by this Section of the Zoning Law; and
  - 9.) All fees charged and collected.

All records shall be public records open for public inspection during normal business



hours, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. All records maintained by the CEO shall be kept in an organized manner calculated to allow easy and efficient review by Town officials or the public. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation. The CEO shall periodically check all reports and plans to ensure that appropriate action, if needed, is taken.

## **§1003 – STOP WORK ORDERS.**

**A. Authority to Issue Stop Work Orders** – The Code Enforcement Officer is authorized to issue stop work orders pursuant to this Article for any work that is determined by the Code Enforcement Officer to be conducted in violation of the Zoning Law, including, but not limited to, work being conducted on land and/or work being conducted on a building or structure for which a special use permit or site plan approval is required but has not been obtained.

**B. Content of Stop Work Order** – A stop work order shall:

- 1.) Be in writing
- 2.) Be dated and signed by issuing Officer
- 3.) State the reason or reasons for issuance
- 4.) If applicable, state the conditions that must be satisfied before work will be permitted to resume.

**C. Service of Stop Work Order** – The CEO shall cause the stop work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered or certified mail. The CEO shall be permitted, but not required, to cause the stop work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop work order, personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop work order.

**D. Effect of Stop Work Order** – When a stop work order is issued, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work that is the subject of the stop work order.

## §1004 – COMPLAINTS AND VIOLATIONS.

**A. Complaints** – The CEO shall review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Law. The process for responding to a complaint shall include any of the following steps the CEO may deem to be appropriate:

- 1.) Performing an inspection of the property, conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- 2.) If a violation is found to exist, providing the owner of the affected property, and any other person who may be responsible for the violation, with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner authorized in 180-66 (Violations) of this Zoning Law;
- 3.) If appropriate, issuing a stop work order and/or compliance order;
- 4.) If a violation that was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing the report with the complaint; and
- 5.) Notify the complainant about the outcome of any investigation initiated as a result of their complaint.

**B. Violations** – The CEO is authorized to order in writing the remedying of any condition or activity found to exist in, on, or about any building, structure, property or premises in violation of this Zoning Law. Upon finding that any violation exists, the officer shall issue a compliance order. The compliance order shall:

- 1.) be in writing
- 2.) be dated, shall identify the CEO, and be signed by the CEO
- 3.) specify the condition or activity that violates this Zoning Law
- 4.) specify the provision or provisions of this Zoning Law that is/are violated by the specified condition or activity
- 5.) specify the period of time the CEO believes is reasonably necessary for achieving compliance
- 6.) direct that compliance be achieved within the specified period of time
- 7.) state that an action or proceeding to compel compliance may be instituted if

compliance is not achieved within the specified period of time.

The CEO shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by registered or certified mail. The Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof; to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

**C. Appearance Tickets** – The CEO is authorized to issue appearance tickets for any violation of the Zoning Law.

## **§1005 – CRIMINAL PENALTIES AND ENFORCEMENT.**

**A.** Any person who, having been served with a notice or order to remove any violation of the code, local laws, ordinances or regulations of the Town of Hanover, or any nuisance, fails to comply therewith within the time fixed by the Code Enforcement Officer/Zoning Officer, shall be guilty of any offense punishable either:

1.) By the imposition of a fine not exceeding \$350 or imprisonment for a period not exceeding six months, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not exceeding six months, or both, and, for conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not exceeding six months; or

2.) By the imposition of a civil penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a small claims proceeding instituted by the town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

**B.)** Each week's continued violation shall constitute a separate, additional violation for which separate and additional fines or civil penalties in the above amounts may be imposed or recovered.

**C.)** The term "person" as used in this section shall include the owner, occupant, mortgagee or vender in possession, operator, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation, directly or indirectly, in control of the premises or part thereof.

D.) Amendment, This section expressly amends and supersedes any inconsistent provisions of any zoning law, rule or offense theretofore adopted by the Town of Hanover, Chautauqua County, New York, and also any inconsistent provision of Article 16 of the Town Law of the State of New York.

E. **Injunctive Relief** – An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Zoning Law. No court action or proceeding shall be commenced without the appropriate authorization from the Town Board. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this Zoning Law, or any Stop Work Order, Compliance Order or other order obtained under this Zoning Law, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions.

F. **Remedies Not Exclusive** – No remedy or penalty specified in this Article shall be the exclusive remedy or penalty available to address any violation described in this Article, and each remedy or penalty specified in this Article shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Section or in any other applicable law. Any remedy or penalty specified in this Article, including stop work orders, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Article or any other applicable law.

In particular, but not by way of limitation, each remedy and penalty specified in this Article, including stop work orders, shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of Section 381 of the New York State Executive Law (Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation and Construction Code), and any remedy or penalty specified in this Article, including stop work orders, may be pursued at any time, whether prior to, or simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section 381 of the New York State Executive Law.

## §1006 – PERMITS.

A. **Work Commenced Prior to Securing Required Permit** – Any applicant commencing work requiring a permit under this Local Law shall have the cost of the applicable permit multiplied by three imposed.

B. **Building Permit** – For zoning purposes, no new structure shall be built, nor an existing structure enlarged or moved, no use of space shall be changed, unless a building permit for such action has been issued by the Code Enforcement Officer. A

building permit shall expire one year from the date of issue.

**C. Zoning Permit** – A zoning permit shall be required for the conversion or change in use of any existing building, structure, or parcel of land where no new construction is involved and where no variance or special permit is required. No zoning permit shall be required when the new use is permitted by right and meets the supplemental requirements, if any, associated with such use.

**D. Application for Zoning Permit** - All applications for a zoning permit shall be made on prescribed forms and shall contain the following information:

- 1.) **Land** - A description of the land on which the proposed use or construction will occur, including deed and filed map references, lot numbers, and tax parcel numbers.
- 2.) **Use, Occupancy** - A statement of the existing and proposed use of all parts of the land and the location, character and existing and proposed use of any existing or proposed buildings or structures; including the number of floors, entrances, rooms, type of construction and the kind and extent of any exterior horizontal extension proposed toward any boundary or street line of the lot.
- 3.) **Identity of Owner, Applicant** - The full name and address of the owner and of the applicant, and the names and addresses of their responsible officers if any of them are corporations, and written permission from the owner if the applicant is not the owner.
- 4.) **Description of Work or Changes in Use** - A brief description of the nature of the proposed work or change in use.
- 5.) **Plans and Specifications** -
  - (a) Each application for a zoning permit shall be accompanied by two copies of plans and specifications, including a map, survey (if applicable), site development or plot plan, drawn to scale, showing the courses, dimensions and detail of all the boundary lines of the proposed lot of occupancy and the street boundaries adjacent thereto; if any, and the location and size of all existing buildings, structures, parking areas, traffic access and circulation drives, open spaces and landscaping on the site, the nature and character of any work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks, and alleys, and such additional information as may be required by the Code Enforcement Officer, to determine compliance with the provisions of this chapter.
  - (b) Plans and specifications shall bear the signature of the person responsible for the design and drawings and where required by the Education Law or any

other applicable statutes, laws, rules or regulations of the State of New York, the seal of a licensed architect or a licensed professional engineer.

- 6.) **Additional information** - Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work or change in use with the requirements of this chapter.

## **§1007 – ACTION ON APPLICATIONS.**

- A. The Code Enforcement Officer shall promptly review the application and approve or deny it, giving the reason for any denial. A copy of the approved or disapproved application shall be delivered or mailed to the applicant within five business days.
- B. An application with the approval of the Code Enforcement Officer endorsed thereon shall constitute the zoning permit, which shall become effective when the Code Enforcement Officer has filed written approval of the permit application in the office of the Town Clerk. A copy of the zoning permit shall be placed in the permanent property file for the property.
- C. **Invalid approval** - No zoning permit shall be valid unless it complies with all provisions of this chapter. Any permit approved in violation of this chapter shall be void.
- D. **Termination of Zoning Permit** - An approved building or zoning permit shall terminate and become void if there is no commencement of the new use within 12 months of the date of approval.

## **§1008 – ENFORCING OFFICER RIGHT OF ENTRY.**

- A. Notwithstanding the powers of other Town Officers to enforce the provisions of the various codes, local laws, ordinances and regulations of the Town of Hanover as set forth therein, the provisions of this section for the enforcement of the codes, local laws, regulations and ordinances of the Town of Hanover and of any other state or local laws, ordinances or regulations enforced by Town of Hanover shall be enforced by the Town of Hanover Code Enforcement Officer/Zoning Officer.
- B. The Town Code Enforcement Officer/Zoning Officer, in enforcing the provisions of the codes, local laws, ordinances and regulation of the Town of Hanover and of any other state or local laws, ordinances or regulations enforced by him pursuant to this section, shall have the power to enter, examine and inspect or cause to be examined and inspected and to investigate or cause to be investigated vacant lots, yards, courts and buildings in this town to determine which are in violation of any code, local law, ordinance and regulations and/or threaten the safety, health, comfort and general welfare of the inhabitants of the town.

# ARTICLE XI – THE PLANNING BOARD

## **§1101 – THE PLANNING BOARD.**

**A. Purpose** – The Planning Board shall have the following jurisdiction and authority:

- 1.) To review and make recommendations on: studies, amendments, or other matters relevant to the Town of Hanover Comprehensive Plan; and matters relating to the planning and development of the Town of Hanover as it seems desirable, provided that the total expenditures of the Planning Board shall not exceed the appropriations therefor.
- 2.) To hear, review and offer its recommendations to the Zoning Board of Appeals when required or requested for variances.
- 3.) To hear, review and finally decide applications for site plan review.
- 4.) To hear, review, and finally decide applications for subdivision.
- 5.) To investigate and report its recommendations to the Town Board with respect to any proposed study or amendment in the Zoning Law or other land use regulations of the Town of Hanover, the subject matter of which, is within the jurisdiction of the Planning Board pursuant to this Zoning Law or State law or other local law or ordinance of the Town.
- 6.) To review and report upon any matter referred to it by the Town Board pursuant to Section 271(14) of the New York State Town Law or the Zoning Board of Appeals, provided such referral by the Zoning Board of Appeals is authorized by law.
- 7.) To exercise any other powers and carry out any other duties as are authorized by law.

## **B. Membership**

- 1.) Appointment and Terms
  - a.) The Planning Board shall consist of seven (7) members appointed by the Town Board. Members now holding office for terms that do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the calendar year and their successors shall then be appointed for terms which shall be five (5) years.
  - b.) Successor Board members shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy

shall occur otherwise than by expiration of term, it shall be filled by the Town Board to fulfill the remaining unexpired term of that member.

- 2.) Board Composition – All members of the Planning Board shall be residents of the Town of Hanover. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.
- 3.) Vacancies – Permanent vacancies on the Planning Board shall be filled by the Town Board.
- 4.) Mandatory Training – All members and alternate members of the Planning Board shall comply with the requirements of New York State Town Law Section 271 that require all planning board members and alternate members to complete a minimum of four (4) hours of training each year. No Planning Board member shall be eligible for reappointment if they have not completed this training as required.
- 5.) Removal
  - a.) The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by this Zoning Law or other law established by the Town Board. Cause for removal of a member may include one (1) or more of the following:
    - (1) Any undisclosed or unlawful conflict of interest.
    - (2) Failure to attend 33% of the meetings during the course of one calendar year.
    - (3) Failure to attend four (4) consecutive meetings.
    - (4) Failure to complete their mandatory training requirements.
  - b.) No member who has been removed for cause shall be reappointed.

**C. Chairperson and Vice Chairperson** – The Town Board shall appoint one of the Planning Board members as Chairperson, to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Planning Board members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may, from time to time, be provided by the rules of the Board. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. The chairperson, or acting chairperson, may administer oaths to applicants, witnesses, or others appearing before the Board and may compel the attendance of witnesses.



**D. Planning Board Secretary and Public Record** – Upon recommendation by the Planning Board in coordination with the Zoning Board of Appeals, the Town Board shall appoint a Planning Board Secretary who shall attend all Planning Board proceedings and, upon request, the proceedings of any of its committees.

- 1.) The Secretary shall keep minutes of the proceedings of the Planning Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board.
- 2.) The Town Clerk shall provide for keeping a file of all records of the Planning Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege.

**E. Voting Procedures**

- 1.) Quorum – No business shall be transacted by the Board without four (4) members of the Board being present.
- 2.) Voting –The concurring vote of at least four (4) members shall be necessary for any action by the Board, pursuant to New York State Town Law Section 271(16). Where an action is the subject of a referral to the Chautauqua County Planning Board, and in the event that the Chautauqua County Planning Board recommends disapproval of the application within the thirty (30) day time period allowed them, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after taking final action on an application, the Planning Board shall file a report of the final action it has taken with the Chautauqua County Planning Board.
- 3.) Assistance to Planning Board –The Board shall have the authority to call upon any department, agency or employee of the town for such assistance as the Board deems necessary. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant.

**F. Decisions**

- 1.) Decisions – Every decision of the Planning Board shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.
- 2.) Final Decision – All deliberations and decisions of the Planning Board shall occur at a meeting open to the public and shall state any special circumstances or conditions. Decisions of the Board shall be final upon adoption of resolution of

Planning Board by a majority of the members of the Planning Board and the filing of the resolution with the office of the Town Clerk.

- 3.) Notification of Decision – Within five (5) business days following the final decision on any action before the Planning Board, a notice of such decision shall be mailed to the applicant and such decision shall be filed in the office of the Town Clerk.
  - 4.) Failure to Act – All time periods prescribed for Planning Board action on a preliminary or final plat, or site plan approval are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of such applications. Such time periods may be extended only by mutual consent of the owner and the Planning Board. If the Planning Board fails to take action on a preliminary plat, final plat, or site plan within the time prescribed after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such application shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the application and the date when such application is deemed complete for review and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval as required.
- G. Conflicts** – No member of the Planning Board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any conflict of interest prohibited by Article 18 of the New York State General Municipal Law shall disqualify a member.
- H. Appeals** – Any person or persons, jointly or severally aggrieved by any final decision of the Planning Board, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of the decision of the Planning Board in the office of the Town Clerk.

# ARTICLE XII – THE ZONING BOARD OF APPEALS

## §1201 – THE ZONING BOARD OF APPEALS.

- A. Purpose** – A Zoning Board of Appeals shall be maintained and operate in accordance with Article 16 of the New York State Town Law, Sections 267, 267-a and 267-b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Boards by Sections 267, 267-a, 267-b and any other applicable State law, and shall fulfill its duties in accordance with those grants of authority and in accordance with Article XII of this Zoning Law.
- B. Membership** – The Board shall consist of five (5) members appointed by the Town Board for staggered terms of five (5) calendar years.
- 1.) All members and alternate members of the Zoning Board of Appeals shall be residents of the Town of Hanover. No person who is a member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.
  - 2.) The Town Board may, in any year it deems necessary, appoint alternate members to the Zoning Board of Appeals to serve as provided in this section. The number of temporary members so appointed pursuant to this section in any year shall not exceed two. Each alternate member shall be appointed for a one-year term. The Chairman of the Zoning Board of Appeals shall assign the alternate member as necessary when a conflict or absence of regular members of the Board would otherwise prevent five (5) members of the Board from considering any pending matter. No more than two alternate members shall sit in determination on any pending matter. The alternate members shall be designated on a rotating basis in the manner provided in the general governing rules of the Zoning Board of Appeals so that each alternate member shall be afforded an equal opportunity to serve. That designation of the alternate member shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. Once designated to serve on a particular matter before the Zoning Board of Appeals, the alternate member shall have the same powers and duties as regular members of the Board until that matter is concluded. Any determination by the Board consisting of alternate members shall have the same weight and be entitled to the same authority as the act or deed of the regular Zoning Board of Appeals and all laws, statutes and regulations shall apply and be applied with equal force and effect. Alternate members appointed pursuant to this section shall comply with all provisions of Section 267 of the Town Law as recited therein. Alternate members appointed pursuant to this section shall be paid for their respective services as fixed by resolution of the Town Board, including such requirements for attendance as

either an observer or participant as may be set from time to time by the Town Board.

**C. Terms of Members Now in Office** – Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

**D. Training and Attendance Requirements**

- 1.) Each member of the Zoning Board of Appeals and each Alternate Member shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one (1) year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
- 2.) To be eligible for reappointment to the Board, a member or alternate member shall have completed the required training.
- 3.) No decision of the Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this training requirement.

**E. Vacancy in Office** – If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.

**F. Removal of Members** – The Town Board may remove, after public hearing, any member or alternate member of the Zoning Board of Appeals for cause. Cause for removal of a member or alternate member may include one or more of the following:

- 1.) Any undisclosed or unlawful conflict of interest.
- 2.) Failure to attend 33% of the meetings during the course of one calendar year.
- 3.) Failure to complete mandatory training requirements.

**G. Chairperson** – The Town Board shall appoint one of the Zoning Board of Appeals members as chairperson to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Zoning Board of Appeals members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the

powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may be provided by the rules of the Board. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths to applicants, witnesses, or others appearing before the board and may compel the attendance of witnesses.

**H. Zoning Board of Appeals Clerk and Public Record** – Upon recommendation by the Zoning Board of Appeals in coordination with the Planning Board, the Town Board shall appoint a Zoning Board of Appeals Clerk who shall attend all proceedings of the Zoning Board of Appeals and, upon request, the proceedings of any of its committees.

- 1.) The Clerk shall keep minutes of the proceedings of the Zoning Board of Appeals, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep record of its examinations and other official actions.
- 2.) The Town Clerk shall provide for keeping a file of all records of the Zoning Board of Appeals, and those records shall be public records open to inspection at reasonable times and upon reasonable notice.

**I. Board of Appeals Procedure**

- 1.) Meetings, Minutes, Records – Meetings of the Zoning Board of Appeals shall be open to the public except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- 2.) Filing Requirements – Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the town clerk within five (5) business days and shall be a public record.
- 3.) Assistance to Zoning Board of Appeals – The Board shall have the authority to call upon any department, agency or employee of the town (e.g. the Building Department or Conservation Advisory Council) for such assistance as the Board deems necessary. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant.
- 4.) Hearing Appeals – Unless otherwise provided in this Zoning Law or other local law, generally the jurisdiction of the Zoning Board of Appeals 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 charged with the enforcement of any ordinance or local law adopted pursuant to Article 16 of New York State Town Law. For the purposes of this law, the administrative official charged with enforcement shall include the Zoning Enforcement Officer, the Building Inspector and/or the Code Enforcement Officer as applicable pursuant to the provisions of this law and those officers shall be referred to collectively in this Article of the Law as “Enforcement Officer”. The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Enforcement Officer, to grant use and area variances. Where a proposed special use, site plan, or subdivision contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination by the Enforcement Officer.

5.) Filing of Administrative Decision and Time of Appeal

a.) Each order, requirement, decision, interpretation or determination of the Enforcement Officer charged with the enforcement of the Town of Hanover Zoning Law shall be filed in the office of such Zoning Enforcement Officer, within five (5) business days from the day it is rendered, and shall be a public record.

b.) All appeals must be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Enforcement Officer by filing with the Enforcement Officer and with the Zoning Board of Appeals a notice of appeal. The notice of appeal shall: specify the grounds for such appeal; the relief sought; identify specifically the section of the Zoning Law or other code or law involved; describe precisely and in detail either the interpretation claimed or the variance or other relief that is sought and the grounds upon which it is claimed the relief should be granted. The notice of appeal shall be accompanied by a short or full Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), by an Agricultural Data Statement as required by NY AML 25- aa, and by other documents relevant to the appeal specified by the Zoning Board of Appeals. The appellant shall also be required to pay a filing fee at the time of the filing of the appeal in an amount to be established by the Town Board. The cost of sending notices relating to such appeal by certified mail, 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 receiving a notice of appeal, the Enforcement Officer shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

6.) Stay Upon Appeal – An appeal shall stay all proceedings in furtherance of the action appealed from unless the Enforcement Officer determines and certifies in writing to the Zoning Board of Appeals, after the notice of appeal shall have been

filed with the Enforcement Officer, that by reason of facts stated in the certificate,, a stay would, in his or her opinion,, cause imminent peril to life or property. Should such a certification be made, the proceedings shall not be stayed other than by a restraining order granted by the Zoning Board of appeals or by a court of record on application, on notice to the Enforcement Officer from whom the appeal is taken and on due cause shown.

- 7.) Public Hearing – The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. The appellant and any other parties to the appeal shall be given written notice of the hearing date and of the fact that at such hearing he or she may appear in person or be represented by an attorney or other agent. Said notice shall be provided at least ten (10) days in advance of the hearing and shall be provided to the appellant by certified mail. The Zoning Board of Appeals shall additionally provide notice as follows:
  - a.) The Zoning Board of Appeals shall give public notice of such public hearing by publication in an official paper of general circulation in the town at least ten (10) 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.
  - b.) The Zoning Board of Appeals shall also give notice to the Chautauqua County planning agency as required by Section 239-m of the New York State General Municipal Law. Such notice shall be in writing sent at least ten (10) calendar days prior to such public hearing.
  - c.) If the land affected by the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Clerk of the Zoning Board of Appeals shall also submit at least ten (10) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.
  - d.) In any application or appeal for a variance, the Clerk of the Zoning Board of Appeals shall provide written notice of the public hearing, along with the substance of the variance appeal or application, to: the owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is the subject of the appeal. Such notice shall be provided by certified mail at least ten (10) calendar days prior to the date of the hearing. Compliance with this notification procedure shall be certified to by the Clerk.

- e.) The names and addresses of surrounding property owners to be notified in accordance with the forgoing shall be taken from the last completed tax roll of the Town.
  - f.) Provided that there has been substantial compliance with this provision, failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in either granting or denying a variance from a specific provision of this Zoning Law.
- 8.) Referrals and Notice to Chautauqua County Planning Board & Town of Hanover Planning Board
- a.) At least ten (10) days before such hearing, the Board of Appeals shall mail notice to the Chautauqua County Planning Board as required by Section 239-m of the New York State General Municipal Law. The notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law. No action shall be taken by the Board of Appeals until an advisory recommendation has been received from the County Planning and Development Department or thirty (30) calendar days have elapsed since the Planning and Development Department received such full statement. In the event that the Chautauqua County Planning Board recommends disapproval of the requested variance or the attachments of conditions thereto within such time period or at a later date prior to final action by the Zoning Board of Appeals, the Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after such final action, the Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board.
  - b.) The Zoning Board of Appeals may transmit to the Town of Hanover Planning Board a copy of the appeal or application, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of such advisory opinion prior to the date of the public hearing. The failure of the Planning Board to submit such report within thirty five (35) days from the date the Zoning Board of Appeals transmitted their request for an advisory opinion with a copy of the appeal or application to the Planning Board shall be interpreted as a favorable opinion for the appeal or application.
- 9.) Compliance with State Environmental Quality Review Act – The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its



implementing regulations as codified in Title Six, Part 617 of the New York Codes, Rules And Regulations.

- 10.) Time of Decision – The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the hearing is completed. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- 11.) Voting Requirements
  - a.) Decision of the Board – Except for the voting requirements for rehearing in Article XI (I) (13) below, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency the voting provisions of Section 239-m of the New York State General Municipal Law and Article XI (I) (8) of this Law shall apply.
  - b.) Default Denial of Appeal – In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by Article XI (I)(10) of this Law, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in Article XI (I) (13) of this Law.
- 12.) Filing of Decision and Notice – The decision of the Board of Appeals on the appeal shall be filed in the office of the Town Clerk within ten (10) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- 13.) Rehearing – A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

#### **J. Permitted Action by the Zoning Board of Appeals**

- 1.) Orders, Requirements, Decisions, Interpretations, Determinations – The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order,

requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Enforcement Officer charged with the enforcement of such ordinance or local law, and to that end, shall have all the powers of such Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.

2.) Special Use Permits – The Zoning Board of Appeals shall have the power to grant special use permits, pursuant to Article VIII Special Use Permits.

3.) Use Variances

a.) The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances.

b.) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

c.) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

d.) A use variance granted by the Zoning Board of Appeals shall expire and be null and void, and of no further effect, if said use has been discontinued for a period exceeding twelve months.

e.) The granting of a use variance by the Zoning Board of Appeals shall become null and void six months from the date of issuance of same, unless said use variance or area variance has been implemented. Implementation shall be determined

based on whether the grantee of the variance has obtained a building permit, if necessary, and substantial progress made on said building permit by erection of the structure, and/or commencement of the use, which was the subject of the variance application before the Zoning Board of Appeals.

#### 4.) Area Variances

- a.) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances as defined herein. In addition, the Zoning Board of Appeals shall also have the power to grant area variances which are necessary in the course of site plan, special use permit and subdivision application for which application for such area variance may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations as authorized by Town Law Sections 274-a(3) [site plan], 274-b(3) [special use permits] and 277(6) [subdivisions].
- b.) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
  - (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (3) whether the requested area variance is substantial;
  - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- c.) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

d.) An area variance granted by the Zoning Board of Appeals shall expire and be null and void, and of no further effect, if said use has been discontinued for a period exceeding twelve months.

e.) The granting of an area variance by the Zoning Board of Appeals shall become null and void six months from the date of issuance of same, unless said use variance or area variance has been implemented. Implementation shall be determined based on whether the grantee of the variance has obtained a building permit, if necessary and substantial progress made on said building permit by erection of the structure, and/or commencement of the use, which was the subject of the variance application before the Zoning Board of Appeals.

5.) Imposition of Conditions –The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**K. Relief from Decisions** – Any person or persons, jointly or severally aggrieved by any final decision of the Zoning Board of Appeals, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be governed by the specific provisions of CPLR Article 78 except that the action must be commenced as therein provided within thirty (30) days after the filing of the decision of the Zoning Board of Appeals in the office of the Town Clerk.

**L. Strict Construction** – All provisions of this Article pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in strict conformity with all provisions of law and of this Article and in strict compliance with all limitations contained therein, provided however, that if the procedural requirements set forth in this Article have been substantially observed, no applicant or appellant shall be deemed deprived of the right of application or appeal.

**M. Other Provisions of New York State Town Law Section 267-a** – All other provisions of New York State Town Law Section 267-a with regard to Zoning Board of Appeals procedure not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals.

## ARTICLE XIII – THE TOWN BOARD

### §1301 – THE TOWN BOARD.

A. **Powers and Duties** – The Town Board shall have the following duties with respect to this Zoning Law

1.) Amendments

a.) The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Law after public notice and hearing.

b.) The Town Board by resolution adopted at a scheduled meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given in accordance with applicable Law.

2.) Special Use Permit

a.) Applicability – The Town Board shall hear all requests for Special Use Permits for Telecommunications Facilities, pursuant to §604 Telecommunications, and for Wind Energy Conversion Systems (WECS), pursuant to §606 Wind Energy Conversion Systems.



## ARTICLE XIV – AMENDMENTS

### **§1401 – AMENDMENTS.**

- A. Procedure – The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this Law after public notice and hearing in each case. All petitions for any amendments of the regulations or districts herein established be filed in writing in a form required by the Town Board, and shall be accompanied by a certified check in the amount of \$50 to help defray the cost of advertising the hearing on said petition and incidental disbursements.
  
- B. Advisory Report by Planning Board – Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
  
- C. Public Notice and Hearing – The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
  - 1.) By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town not less than 10 days prior to the date of public hearing.
  
  - 2.) By giving written notice of hearing to any required Municipal County, Regional, Metropolitan, State or Federal Agency in the manner prescribed by law.
  
- D. Protest by Owners – If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of twenty per-cent or more of the area of land included in such proposed amendment, or by the owners of twenty percent or more of the area of the land immediately adjacent extending 100 feet therefrom , or by the owners of twenty percent or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least 3/4 of the members of the Town Board.
  
- E. Changes by Planning Board – The Planning Board in accordance with Town Law, Section 281 may, simultaneously with the approval of any plat, make any reasonable change to the regulations established under this Law with respect to the land so platted. Before the Planning Board shall make any such change, there shall be a

public hearing preceded by the same notice as in the case of the approval of the plat itself. Once the filing of the plat in the office of the County Clerk, such changes shall be and become part of the regulations of this Law, shall take the place of any regulations established herein by the Town Board shall be enforced in the same manner, and shall be similarly subject to amendment.

- F. Publication and Posting – Every amendment to the Zoning Law, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board; a copy, summary or abstract of the amendment, exclusive of any map incorporated therein, shall be published once in the official newspaper of the Town; and a copy of such amendment together with a copy of any map incorporated therein, shall be posted on the Town’s official website and in the Office of the Town Clerk. Affidavits of the publication and posting thereof shall be filed with the Town Clerk.



# ARTICLE XV – INTERPRETATIONS & DEFINITIONS

## **§1501 – WORD USAGE.**

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.

Words used in the present tense shall include the future.

Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word “shall” is always mandatory and not discretionary.

The word “may” is permissive.

The word “lot” shall include the words “plot”, “piece” or parcel.

The word “building” includes all other structures of every kind regardless of similarity to buildings, and any part thereof.

The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.

The word *person* includes an individual person, a firm, a corporation, a partnership, and any other agency of voluntary action.

The word *he* shall include *she* or *they*.

## **§1502 – DEFINITIONS.**

ACCESSORY BUILDING OR USE. An “accessory building or use” is one which:

- (a.) Is subordinate to and serves a principal building or principal use, and
- (b.) Is subordinate in area, extent to purpose to the principal building or principal use served; and
- (c.) Contributes to the comfort or necessity of occupants of the principal building or principal use served; and
- (d.) Is located on the same zoning lot as the principal building or principal use served.

ADDITION. Any extension or increase in floor area, square footage, height of structure, number of stories, to be attached to an existing structure in the Town of Hanover, and having a common wall with the existing structure. Attachment by sidewalk, deck or breezeways shall not be considered a common wall. For purposes of complying with Chapter

11 of the Residential Code of New York State, the term “Addition” shall also include any increase in conditional space, or extension of a building system or sub-system.

AGRICULTURE. Land, including necessary buildings and structures, that has as its principal use crop and tree farming, truck farming, gardening, nursery operations, dairy farming, stock raising, domestic animal and poultry breeding and raising (not including raising of fur-bearing animals, or animals hospitals) and forestry operations, together with the operation of any machinery or vehicles incident to the above uses.

AGRICULTURE, LIMITED. The production of crops, plants, vines and trees, provided no substantial odor or dust is produced within 100 feet of any building or adjacent property.

AIRPORT OR AIRCRAFT LANDING FIELD. Any landing area, runway or other facility (including heliports) designed, used or intended to be used either publicly or privately by any person or persons for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage and tie down areas, hangars, and all other necessary buildings and open spaces.

ALTERATIONS. As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing the height or by moving from one (1) location or position to another.

AMUSEMENT ESTABLISHMENTS, INDOOR. Bowling alleys, pool halls, dance halls, skating rinks and other similar places of recreation.

AMUSEMENT ESTABLISHMENTS, OUTDOOR. Fair grounds, carnivals and other similar amusement centers and including places of assembly devoted thereto, such as stadiums and arenas.

AREA BUILDING. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porch’s, terraces and steps.

AREA VARIANCE. A variance, which does not involve a use, which is prohibited by the Zoning law (e.g. set back lines, frontage requirements, lot size restrictions, density regulations, yard requirements).

AUTO REPAIR GARAGE, MAJOR. Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles within an enclosed building.

AUTO REPAIR GARAGE, MINOR. Incidental repairs, replacement of parts, and motor service to motor vehicles, but does not include any operation specified under the ‘Major Motor Vehicles Repairs’.

AUTO SERVICE STATION. Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles.

BILLBOARD. Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to announce church services, or to display court or other public office notices, or signs offering the sale or lease of the premises on which the sign is located.

BOARDING HOUSE. A dwelling in which more than three (3) persons individually or as families are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.

BOAT, PERSONAL WATERCRAFT (2011). A vessel capable of carrying one or more person, and intended for use on or in the water.

BREWERY/MICROBREWERY. An establishment where beer, ale, etc. are brewed, bottled/canned, and sold, typically in conjunction with a bar, tavern, or restaurant use. The maximum brewing production shall not exceed 5,000 gallons per year.

BUILDING AREA. The space remaining on a zoning lot after the minimum open space requirements of this ordinance have complied with.

BUILDING. Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings; and which is designed or intended for the shelter, enclosure or protection of persons, animals or chattel. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures are not considered as buildings.

BUILDING, DETACHED. A building surrounded by open space on the same lot.

BUILDING, HEIGHT. The vertical distance from the highest point on a structure to the average ground level of the grade where the wall or other structural elements intersect the ground.

BUILDING, NON-CONFORMING. Any building which does not conform to the regulations of this Law prescribing required yards, coverage, height, and setbacks, minimum required usable open space for the district in which such building is located.

BUILDING, PERMIT. Written approval by the Code Enforcement Officer in accordance with the Zoning Law to construct or alter a structure or use a parcel of land in a specified way.

BUILDING, PRINCIPAL. A building in which is conducted the main use of the zoning lot on which it is situated.

BUILDING, SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this Law.

BUILDING, TEMPORARY. Any building not designed to be permanently located in the place where it is, or where it is intended to be placed or affixed.

CAMP, PRIVATE. A parcel of land on which a travel trailer, tent, cabin, or other structure is present for use on a seasonal basis for leisure or recreational purposes. (See Supplemental Section)

CLUB OR LODGE, PRIVATE. A non-profit association of persons who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests.

CLUSTER RESIDENTIAL. Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining open space.

COVERAGE. That percentage of the plot or lot covered by building area.

DAY CARE CENTER.

DUMP. A lot or land or part thereof used primarily for the disposal or abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING. A building designed or used exclusively for residential occupancy, including one (1) family dwelling units, two (2) family dwelling units and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

DWELLING, TWO FAMILY. A building designed or altered to provide dwelling units for occupancy by two (2) families.

DWELLING UNIT. A structure containing one or more rooms providing living facilities, including provisions for kitchen and bath facilities, for one or more person living as one family. Dwelling units shall be categorized as one of four construction types:

- A. Conventional – A permanent, single or multi-family dwelling unit, which is built on site using conventional stick-built construction techniques, among others. Included in this category are pre-cut homes which refers to a conventional dwelling unit built on-site using wood framing members that are pre-cut in a factory to the correct lengths but delivered to the building site unassembled and assembled on-site. For the purpose of this law, a pre-cut dwelling unit shall be considered to be the same as a conventional dwelling unit and shall not be considered a manufactured home.

- B. Modular – A permanent single or multiple–family dwelling unit, which is brought to the building site as 2 or more units on a transport trailer. Modular dwelling units have no support frames as found on mobile homes but instead are placed on a separate foundation. Modular dwelling units contain the same utility systems as conventional dwelling units. Modular dwelling units are not designed to be moved after they have been lifted onto a foundation. They are generally a minimum of 24 feet wide.
  
- C. Prefabricated – A permanent single or multiple–family dwelling unit which is brought to the building site in large sections or panels, usually 8 feet high and up to 40 feet long. Often the doors and windows are factory installed in the panels with the wall panels designed to be erected immediately after delivery. Prefabricated dwelling units are sometimes referred to as panelized units.
  
- D. Mobile/Manufactured Home – A transportable, fully assembled single–family dwelling unit suitable for year–round occupancy. Mobile dwelling units contain the same utility systems (water, waste, electricity) as found in conventional dwelling units. Mobile dwelling units are not designed to be lived in except when set up on a lot with proper utilities. This includes wide mobile dwelling units, but does not include travel trailers which are self–contained. For the purposes of this Zoning Law, mobile homes are listed separately as allowed uses as are conventional (stick built/precut), modular and prefabricated (panelized) dwelling units. All mobile/manufactured homes in the Town of Hanover are required to be manufactured to and have a HUD seal.

ERECT. The act of placing or affixing a component of a structure upon the ground or upon another such exponent.

ENFORCEMENT OFFICER. Shall mean the Code Enforcement Officer of the Town of Hanover.

FAMILY. One (1) or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons (excluding servants) who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not including sororities, fraternities or other similar organizations.

FARM. Any parcel of land containing at least ten (10) acres which is used for gain in the raising of agricultural products, livestock, poultry, and /or dairy products. It includes necessary farm structures and the storage of equipment used.

FENCE. Any artificially constructed barrier or vegetation barrier, such as a hedge with the purpose or intent of preventing passage or view, thus providing privacy. Fence regulations do not apply within State certified agricultural districts.

**FEED LOT.** To include the commercial feeding of garbage or offal to swine or other animals on open lots where no feed is raised on premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc. (Subject to distance regulations from residential property).

**FILLING HOLES/PITS/LOWLANDS.** Filling of holes, pits or lowlands with non-combustible material free from refuse and food wastes.

**FLOOR AREA, GROSS.** For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of several floors of a building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area for purposes of measurement for off-street parking spaces shall not include: Floor area devoted primarily to storage purposes (except as otherwise noted herein), floor area devoted to off-street parking or loading facilities; floor including aisles, ramps and maneuvering space; or basement floor area other than devoted to retailing activities, to the production or process of goods, or to business or professional offices.

**FUEL BULK STATION.** A place where crude petroleum, gasoline, naphtha benzene, benzyl, diesel fuel, kerosene or flammable liquid which has a flash point at or below two hundred (200) degrees Fahrenheit (closed sup tester) is stored for wholesale purposes, where the aggregate capacity of all storage tanks is more than eight thousand (8,000) gallons, regardless of whether the fuel is stored above the ground, underground or in mobile tank cars or trucks.

**GENERAL RETAIL.** A use devoted exclusively to the retail sale of a commodity or commodities. The sales area of such use shall be indoors only, and the total enclosed area of such use shall not exceed 4,000 square feet.

**GOLF COURSE.** Public, semi-private or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto.

**GROUP HOME.** Any home in which eight or fewer mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the other residents.

**HOME OCCUPATION, MINOR.** – A business, profession or craft conducted for gain or support and conducted entirely within a portion of a single-family dwelling unit by one or more of the residents of the dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which meets all applicable requirements of these regulations for such use.

HOME OCCUPATION, MAJOR. – A business, profession or craft conducted for gain or support and conducted entirely within a portion of a single-family dwelling unit or accessory structure to the dwelling, by one or more of the residents of the dwelling and up to two (2) nonresident employees, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes; which does not change the character thereof; which is not classified as a “Minor Home Occupation” under this law; and which meets all applicable requirements of these regulations for such use.

HOME BUSINESS. – A business, profession, occupation or trade conducted for gain or support, other than a home occupation as defined herein, conducted within or on the same lot as an occupied single-family dwelling by the inhabitants thereof. The home business may involve the provision of services or the manufacture and/or sale of goods on the premise.

HOSPITAL. Unless otherwise specified, the term “hospital” shall be deemed to include sanitarium, sanatorium, clinic, rest home, nursing home, Convalescent home, and any other place for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL, MOTEL, INN OR AUTO COURT. An establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering or lines used on the premises, telephone and secretarial or desk service.

HOUSEHOLD SALE. Household sale for the purpose of this law shall include lawn sales, patio sales, garage sales, basement sales, flea markets, bazaar or other similar types of sales. A household sale shall be distinguished from a business in that it involves the infrequent sale of used merchandise which, for private sales, was NOT obtained from outside the household. Nonprofit or fraternal organizations on the other hand may obtain their sale items from donations received from members or other sources.

JUNK YARD. An open area where waste, scrap metal, paper, rags or similar materials are brought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building wrecking yards, but not including similar uses taking place entirely within a completely closed building.

JUNKER. An automobile, truck or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power and will require major repairs before being made usable, or such a vehicle which does not comply with the State of County laws or ordinances for vehicles.

KENNEL. Any lot or premises or portion thereof on which more than four (4) dogs, cats and other household domestic animals, over four (4) months of age are boarded for compensation or just kept for sale.

LIGHT INDUSTRY. The manufacture, preparation, processing, milling or repair of any article, substance or commodity and which involves no dangerous or toxic product or emissions.

LINE OF BUILDING. (For measuring yards). A line parallel to the nearest lot line drawing through the point of a building or a group of buildings nearest to such lot line, exclusive of such features specified as being permitted to extend into a yard.

LINE, STREET. The dividing line between the street and the lot.

LIVE ENTERTAINMENT. Any musical act, theatrical act, play, revue, or any combination thereof, performed by one or more persons, whether or not they are compensated for the performance, in a privately owned premises that is open to the public, whether or not admission is charged.

LOADING AND UNLOADING SPACE, OFF-STREET. An open hard surface area of land other than a street or public way, the principle use of which is for the standing, loading, and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall be less than ten feet (10') in width, seventy-five feet (75') in length and fourteen feet (14') in height, exclusive of access aisles and maneuvering space.

LOT. A parcel of land occupied, or designed to be occupied by one building and accessory buildings or uses customarily incidental to it, including such open space as are required by this Zoning Law.

LOT, CORNER. A parcel of land situated at the intersection of two (2) or more streets or adjoining a curved street at the end of a block.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT DEPTH. The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT FRONTAGE. The front of a lot shall be that boundary of a lot along a public street; for a corner lot, the owner may elect either street as the front lot line.

LOT LINE, FRONT. The front property line of a zoning lot.

LOT, THROUGH. A lot having frontage on two (2) parallel or approximately parallel streets, and which is not a corner lot.

LOT, WIDTH. The mean horizontal distance between the side lot lines measured within the lot boundaries, of the minimum distance between the side lot lines within the buildable area.

LOT, ZONING. See "ZONING LOT"



MANUFACTURE. The making of anything by any agency or process.

MANUFACTURED HOME COURT. A tract of land where two (2) or more manufactured homes are parked.

MULTI-FAMILY RESIDENCE. A building used or designed for three (3) or more dwelling units, including apartments and townhouses.

NAMEPLATE. A sign indicating the name and address of a building or the name of the occupant thereof and the practice of a permitted occupation therein.

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this Law, and which does not conform to the regulations of the district or zone in which it is situated.

NURSERY SCHOOL. A school designed to provide daytime care of instruction for two (2) or more children from two (2) to five (5) years of age inclusive, and operated on a regular basis.

OFFICE. A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer or person providing similar services or in whose office the functions of consulting, record keeping, and clerical work is performed.

OPEN SPACE. Common, or public, or private greens, parks, or recreation areas, including playgrounds, woodland conservation areas, walkways, trails, stream crossings and drainage control areas, golf courses, swimming pools, tennis courts, ice skating rinks, and other similar recreational uses, but which may not include any such uses or activities which produce noise, glare, odor, air pollution, fire hazards, or other safety hazards, smoke fumes, or any use or activity which is operated for a profit, or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.

OTHER BUSINESS USES. Businesses not specifically listed in the use table but found to have economic compatibility with the established uses on adjoining property. (See § 617)

PARKING SPACE, AUTOMOBILE. Space within a public or private parking area of not less than one hundred sixty-two feet (162'), eight and one-half feet (8 ½') by nineteen feet (19'), exclusive of access drives or aisles, ramps, columns, or office and work area, for the storage of one (1) passenger automobile or commercial vehicle under one and one-half (1 ½) ton capacity.

POLITICAL SIGNS. Any sign or signs advertising a candidate or candidates for public office.

PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.

PUBLIC UTILITY. Any person or firm, corporation, or municipal department, duly authorized to furnish under regulation to the public, electricity, gas, steam, telephone, transportation, sewer, water or cable television service.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING. A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made.

RAILROAD RIGHT-OF-WAY. A strip of land with tracks and auxiliary facilities for track operation, but does not include depot landing platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

RECREATIONAL VEHICLE. A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

RUNWAY. A strip or area of pavement used exclusively for the landing and taking off of aircraft or for the movement of vehicles incidental to such use.

SIGN. A name, identification, description, display or illustration, which is affixed to or painted or represented, directly or indirectly, upon a building, structure or other object or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business.

SIGN, ADVERTISING (BILLBOARD). A sign which directs attention to a business, commodity, service or entertainment sold or offered upon a premises where such a sign is located, or to which it is affixed.

SIGN, FLASHING. Any illuminated sign on which artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Law, any revolving, illuminated sign shall be considered a flashing sign.

SPECIAL USE. Any use of land or buildings, or both, described and permitted herein, subject to the provisions of Article VIII.

SPECIAL USE PERMIT. A special use permit deals with special permission, granted only by the Zoning Board of Appeals to occupy land for specific purposes when such use is not permitted by right, but is listed as permitted by special use permit.

STABLE, LIVERY. Any building, other than a private stable, designed, arranged, used or intended to be used for the storage of horses and horse-drawn livery or both.

STAND, ROADSIDE. A structure for the display and sale of only farm products.

STORAGE STRUCTURE. Any constructed combination of materials located or attached to the ground utilized for non-inhabited storage purposes. Used trucks and similar motor vehicles shall not be utilized as storage structures.

STORY. That portion of a building included between the surface of any floor, and the surface of the floor above it or of there is no floor above, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen feet (14') in height shall be considered as an additional story for each fourteen feet (14') or fraction thereof.

STREET. A public or private way, which affords the principal means of access to abutting properties.

STREET GRADE. The officially established grade of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE. A line separating an abutting lot, piece or parcel from a street.

STRUCTURAL ALTERATIONS. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams and girders.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

TAVERN OR LODGE. A building where liquors are sold to be consumed on the premises but not including restaurants where the principal business is serving food.

TERRACE, OPEN. A level and rather narrow plane or platform which, for the purpose of this Law, is located adjacent to one (1) or more faces of the principle structure and which is constructed not more than four feet (4') in height above the average level of the adjoining ground.

THEATER, OUTDOOR DRIVE-IN. An open lot of part thereof, with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

TOURIST COURTS, MOTOR LODGES, MOTELS. A group of attached or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking spaces conveniently located to each unit, including auto courts, motels, motor lodges, or similar type uses.

TOURIST HOMES. A dwelling in which accommodations are provided or offered for transient guests.

TRASH. Glass, scrap wood, scrap metals, salvaged metals, rags, refuse, garbage, wastepaper, salvaged machines, salvaged appliances or similar materials which are prepared for disposal.

USE. The purpose for which land or a building thereon is designed, arranged or intended, or for which is occupied or maintained, let or leased.

USE VARIANCE. A variance which permits a use of land, which is proscribed by the zoning regulations

VARIANCE: Permissive waivers from the terms of this Law, as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Law will result unnecessary hardship or practical difficulty so that the spirit of the Law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

VETERINARY HOSPITAL. Any building or portion thereof designed or used for the care, observation or treatment of domestic animals.

YARD: An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT: An open unoccupied space on the same lot with a building situated between the street line and a line connecting parts of the building setting back from the nearest to such street line, and extending to the side lines of the lot.

YARD, REAR: A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

YARD, SIDE: The part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

ZONING LOT: A plot of ground made of one or more parcels, which is or may be occupied by a use, building or buildings including the open spaces required by this Local Law.

ZONING MAP: The map or maps incorporated into this Local Law as a part thereof, designating Zoning Districts.